United States International Trade Commission

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2011 Review of Additions and Competitive Need Limitation Waivers

Investigation No. 332-529
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May 2012

U.S. International Trade Commission

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NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO THE UNITED STATES TRADE REPRESENTATIVE ON MAY 14, 2012. ALL CONFIDENTIAL NATIONAL SECURITY INFORMATION AND CONFIDENTIAL BUSINESS INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

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Abstract

This report contains the advice of the U.S. International Trade Commission (Commission) to the President on the effects of certain proposed modifications to the U.S. Generalized System of Preferences (GSP). The Commission is providing advice concerning:

(1) The probable economic effect on U.S. industries, imports, and consumers of the elimination of U.S. import duties for one Harmonized Tariff Schedule (HTS) subheading for all beneficiary developing countries− certain polyethylene bags (3923.21.00) (the petition filed at USTR seeks GSP eligibility for statistical reporting number 3923.21.0030, which would need to become a new eight-digit HTS subheading);

(2) The probable economic effect on U.S. industries, imports, and consumers of the elimination of U.S. import duties for 12 HTS subheadings for all least-developed beneficiary developing countries (LDBDCs). The products covered are certain un-carded and un-combed cotton (5201.00.18, 5201.00.22, 5201.00.24, 5201.00.28, 5201.00.34, and 5201.00.38) and certain cotton waste and carded or combed cotton fibers (5202.91.00, 5202.99.30, 5203.00.05, 5203.00.10, 5203.00.30, and 5203.00.50); and

(3) The effect on U.S. industries, imports, and consumers of granting a waiver of the competitive need limitations (CNL) for the following nine products and HTS subheadings from specified countries: cooked beef in airtight containers from Argentina (1602.50.20); refined borax from Turkey (2840.19.00); other acyclic monoamines from the Philippines (2921.19.60); lysine from Brazil (2922.41.00); agarbatti and other burned incense from India (3307.41.00); seamless rubber gloves other than medical gloves from Thailand (4015.19.10); aluminum alloy plate, sheet, and strip from Indonesia (7606.12.30); certain air conditioner parts from Thailand (8415.90.80); and brake parts for motor vehicles from India (8708.30.50).

CHAPTER 1
Introduction and Summary of Advice

Introduction[1]

This report by the U.S. International Trade Commission (Commission or USITC) provides advice relating to the effect of certain proposed modifications to the U.S. Generalized System of Preferences (GSP), as requested by the United States Trade Representative (USTR).[2] The report provides three types of advice:

(1) Advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers of the elimination of U.S. import duties for Harmonized Tariff Schedule of the United States (HTS) subheading 3923.21.00, certain polyethylene bags (the petition filed at USTR seeks GSP eligibility for statistical reporting number 3923.21.0030, which would need to become a new eight-digit HTS subheading);

(2) Advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers of the elimination of U.S. import duties for 12 HTS subheadings for all least-developed beneficiary developing countries (LDBDCs). These HTS subheadings are 5201.00.18, 5201.00.22, 5201.00.24, 5201.00.28, 5201.00.34, and 5201.00.38 (certain un-carded and un-combed cotton) and 5202.91.00, 5202.99.30, 5203.00.05, 5203.00.10, 5203.00.30, and 5203.00.50 (certain cotton waste and carded or combed cotton fibers); and

(3) Advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limitations (CNL) for 9 HTS subheadings from specified countries; advice with respect to whether like or directly competitive products were being produced in the United States on January 1, 1995; and advice as to the probable economic effect on total U.S. imports and on consumers of the requested waivers. The HTS subheadings, articles, and countries for the proposed CNL waivers are as follows: 1602.50.20, cooked beef in airtight containers, from Argentina; 2840.19.00, refined borax, from Turkey; 2921.19.60, other acyclic monoamines, from the Philippines; 2922.41.00, lysine, from Brazil; 3307.41.00, agarbatti and other burned incense, from India; 4015.19.10, seamless rubber gloves other than medical gloves, from Thailand; 7606.12.30, aluminum alloy plates, sheet, and

[1] The information in these chapters is for the purpose of this report only. Nothing in this report should be construed as indicating how the Commission would find in an investigation conducted under any other statutory authority.

[2] See appendix A for the USTR request letter. See appendix B for the Commission's ***Federal Register*** notice instituting the investigation. The Commission held a public hearing on this matter on March 30, 2012, in Washington, DC; see appendix C for the calendar of witnesses for the public hearing.

strip, from Indonesia; 8415.90.80, certain air conditioner parts, from Thailand; and 8708.30.50, brake parts for motor vehicles, from India. With respect to the competitive need limit, the Commission used, as requested, the dollar value limit of $150,000,000.

Analytical Approach

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Summary of Advice

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CHAPTER 2
Certain Polyethylene Bags

Addition[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
3923.21.00[a]	Sacks and bags (including cones) for the conveyance or packing of goods, of polymers of ethylene.	3	Yes
[a] This HTS subheading is currently on the list of articles eligible for duty-free treatment under the provisions of the GSP. However, this is an "A*" subheading, which indicates that certain beneficiary developing countries (in this case, Thailand) are not eligible for such preferential treatment. Thailand was removed from GSP eligibility on July 1, 2006, after exceeding the competitive need limitation. *Petition seeks GSP eligibility for all GSP-eligible countries for statistical reporting number 3923.21.0030, which would need to become a new 8-digit HTS subheading.*			

A wide variety of polyethylene bags are included under the above 8-digit HTS subheading. The higher-volume segments in this category include trash bags and can liners, retail carrier bags, shipping sacks, and industrial box and drum liners. Other polyethylene bags of importance are resealable storage bags, produce bags, bread bags, and newspaper sleeves.[2]

Reclosable pinch-seal bags pertinent to this petition are broken out at the 10-digit level under HTS 3923.21.0030. These bags are clear to semi-clear bags and are made of low-density polyethylene resins, of which at least one side must exceed 75 millimeters (2.95 inches). Pinch-seal bags are generally rectangular in shape and are available in a variety of sizes and thicknesses, ranging from small thin bags up to thicker large bags of several gallons in volume. Pinch-seal bags function to provide a single or double reclosable airtight zipper seal for the storage and conveyance of foods and other nonfood consumer merchandise, and may be reused in many instances. Pinch-seal bags, as implied by their name, are closed by using the fingers to pinch together polyethylene zipper closure elements that are formed near the top of the bag as an integral component during the manufacturing process. The bag may be reopened by pulling apart the closures. In the United States, Ziploc and Glad pinch-seal storage bags are well-known brand names that, along with several private label brands, are sold through grocery stores and other mass merchandising outlets.[3]

[1] The petitioners are S.C. Johnson & Son, Inc. (S.C. Johnson), and the Government of Thailand.

[2] Information derived from data of the U.S. Department of Commerce and American Chemistry Council.

[3] Various correspondence with industry representatives, together with other Commission staff research.

Since July 2011, reclosable pinch-seal bags have been classified under HTS statistical reporting number 3923.21.0030. Before July 2011, these bags were classified under HTS statistical reporting number 3923.21.0019, together with slider bags.[4] Pinch-seal bags reportedly predominate in the marketplace over slider bags and are less expensive to produce; they are usually preferred for the smaller and thinner snack food and sandwich closure bags.[5] Other typical end use applications for pinch-seal bags include storage bags for the refrigeration and/or freezing of fruits and vegetables, and for nonfood items. Food storage and freezer bags range in size nominally from a quart to 2 gallons, while nonfood storage bags for clothing and other accessories can encompass a wider range up to 10 gallons in volume or more.[6]

Advice

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Profile of U.S. Industry and Market, 2007–11

The data in table 2.1 present an overview of the U.S. market for all types of polyethylene plastic bags included in HTS subheading 3923.21.00, of which reclosable pinch-seal polyethylene bags are a part. Reclosable pinch-seal bags, however, are estimated to account for a small share of the total U.S. market for and production of polyethylene plastic bags. The types of bags produced in the United States include trash bags, polyethylene retail carrier bags (PRCBs), industrial liners, shipping sacks, reclosable pinch-seal and nonsubject slider bags, produce bags, clothing and bread bags, and newspaper sleeves. The large-production-volume trash bags and PRCBs are typically made of high-density polyethylene and linear low-density polyethylenes, which differ in composition from pinch-seal bags.[7]

[4] The process of producing slider bags is similar to that of pinch-seal bags, with the added step of applying a plastic slider to the top of the bag for convenience of opening and closing the bag.

[5] Prehearing brief submitted to the USTR by Crowell & Moring on behalf of S.C. Johnson & Son, Inc., March 6, 2012.

[6] Ziploc Co., http://www.ziploc.com, retrieved various dates in 2011 and 2012; Commission staff research.

[7] U.S. Department of Commerce data, together with other Commission staff research.

TABLE 2.1 Certain polyethylene bags **(**HTS subheading 3923.21.00): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	*70	*70	*70	*70	*70
Employment (*1,000 employees*)	*22	*22	*23	*22	*23
Shipments *(1,000 dollars*)	*7,100,000	*7,200,000	*6,700,000	*6,800,000	*7,000,000
Exports (*1,000 dollars*)	453,489	481,232	427,377	478,317	517,547
Imports (*1,000 dollars*)	1,579,983	1,726,742	1,364,304	1,560,920	1,713,338
Consumption (*1,000 dollars*)	*8,226,494	*8,445,510	*7,636,927	*7,882,603	*8,195,791
Import-to-consumption ratio (*percent)*	*19	*20	*18	*20	*21
Capacity utilization (*percent*)	*88	*89	*83	*84	*87

Source: Except as noted, data are derived from official statistics of the U.S. Department of Commerce. Number of producers, employment, and shipments estimated by Commission staff based on data reported for all plastics bag manufacturing by the U.S. Department of Commerce under NAICS code 326111 (Annual Survey of Manufacturers; Census of Manufacturers). Capacity utilization estimated by Commission staff based on shipment trends.

Note: * Indicates that the estimates are based on information/data that are adequate for estimation with a moderately high degree of confidence.

Leading U.S. producers of reclosable pinch-seal bags include S.C. Johnson (producer of Ziploc brand bags), Clorox (producer of Glad bags), Minigrip (a subsidiary of Illinois Tool Works—ITW), Webster (a subsidiary of AEP Industries), Presto Products (a subsidiary of Reynolds), and Trinity Packaging Corp. (a privately held, family-owned company).[8] Webster stated that it is a producer of private label (store label) bags and that there are other private label manufacturers such as Trinity.[9] S.C. Johnson stated that more than 50 percent of the bags it sells in the United States, which includes pinch-seal bags, are produced domestically.[10] S.C. Johnson does not produce private label brands. S.C. Johnson also imports reclosable pinch-seal bags from Thailand, as do other U.S. producers.

S.C. Johnson's share of ***.[11] According to Webster, S.C. Johnson's Ziploc brand accounts for 45 percent of the U.S. market for reclosable pinch-seal bags.[12]

GSP Import Situation, 2011

In 2011, U.S. imports from all GSP-eligible countries under HTS subheading 3923.21.00 were valued at $85 million and accounted for 5 percent of total imports, or 1 percent of U.S. consumption, compared to 21 percent of U.S. consumption for all imports (table 2.2). The leading GSP suppliers of U.S. imports under this HTS subheading in 2011 were India, Sri Lanka, and the Philippines.

[8] USITC hearing transcript, March 30, 2012, 17.
[9] Ibid., 17, Exhibit 1; Commission staff research.
[10] Ibid., 13.
[11] E-mail correspondence from ***, March 7, 2012.
[12] USITC hearing transcript, March 30, 2012, 18.

TABLE 2.2 Certain polyethylene bags (HTS subheading 3923.21.00): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	1,713,338	100	([a])	21
Imports from GSP-eligible countries:				
Total	84,501	5	100	1

Source: Compiled from official statistics of the U.S. Department of Commerce.

[a] Not applicable.

Thailand accounted for 7 percent of total U.S. imports under HTS subheading 3923.21.00 in 2011. If Thailand had been GSP eligible in 2011, the country would have accounted for about 60 percent of total GSP imports.

Table 2.3 provides data calculated on the assumption that reclosable pinch-seal bags (HTS 3923.21.0030) were an 8-digit HTS subheading eligible for GSP. The data are constructed to show the effect of Thailand's potential addition to the list of GSP beneficiary countries. Total U.S. imports for the given 10-digit HTS classification during the period July–December 2011 were valued at $127 million, of which $19 million, or 15 percent of total imports, was from GSP countries. Thailand, under this scenario, would have accounted for essentially all of the GSP imports (97 percent). India, Brazil, and Turkey accounted for nearly all of the remaining 3 percent. The non-GSP eligible countries of China, Canada, and Mexico accounted for about 75 percent of the total imports in this 10-digit category.

TABLE 2.3 Reclosable pinch-seal bags (HTS 3923.21.0030): U.S. imports and share of U.S. consumption, July–December 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	127,230	100	([a])	([a])
Imports from GSP-eligible countries:				
Total[b]	19,268	15	100	([a])
Thailand	18,647	15	97	([a])

Source: Compiled from official statistics of the U.S. Department of Commerce. Reclosable pinch-seal bags were broken out at the 10-digit HTS level for statistical purposes effective July 1, 2011.

[a] Not applicable.
[b] These data include U.S. imports from Thailand, which is currently not eligible for duty-free treatment.

Since 1968, S.C. Johnson has maintained a subsidiary in Bangkok, Thailand, which employs approximately 90 employees. This enterprise functions as a distributorship for several of its products and also provides support services to a number of independently owned Thai contract manufacturers both for domestic and international markets. S.C. Johnson stated that it relies on production facilities in Thailand for its imports of pinch-seal bags. The firm stated that it also imports from three independently owned Thai

producers.[13] Reportedly, S.C. Johnson's Thai manufacturing supplements its U.S. production by ensuring that it has the capacity to meet demand for new and innovative products.[14] S.C. Johnson believes that Minigrip, a U.S. producer of subject bags,[15] also imports a significant volume of pinch-seal plastic bags from Thailand. Minigrip reportedly maintains a subsidiary in Thailand.[16]

U.S. Imports and Exports

During the period 2007–11, U.S. imports of all types of polyethylene bags tended to fluctuate in the $1.6 to $1.7 billion range, although there was a significant drop during 2009 (table 2.4).[17] China, Canada, and Thailand were the primary U.S. import sources in the pinch-seal category (HTS 3923.21.0030) during July–December 2011 (table 2.5). Thailand accounted for 15 percent of total U.S. imports of this product during the 6-month period in 2011.

[13] Prehearing brief submitted to the USTR by Crowell & Moring on behalf of S.C. Johnson & Son, Inc., March 6, 2012.

[14] USITC hearing transcript, March 30, 2012, p. 13–14.

[15] Minigrip, http://www.minigrip.com, retrieved various dates, 2011–12.

[16] Petition submitted to the USTR by Crowell & Moring on behalf of S.C. Johnson & Son, Inc., December 6, 2011.

[17] Thailand, China, and Malaysia, major import sources of some of these products covered under HTS subheading 3923.21.00, are currently subject to antidumping orders for retail carrier bags, which are a large segment of the end-use categories covered in HTS subheading 3923.21.00. Reclosable pinch-seal bags are not included under the antidumping order. USITC, *Polyethylene Retail Carrier Bags from Indonesia, Taiwan, and Vietnam, Invs. Nos. 701-TA-462 and 731-TA-1156-1158 (Final)*, USITC Publication 4144, April 2010; USITC, *Polyethylene Retail Carrier Bags from China, Malaysia, and Thailand, Invs. Nos. 731-TA-1043-1045 (Review)*, USITC Publication 4160, June 2010; USITC, *Polyethylene Retail Carrier Bags from Thailand: Antidumping Duty Administrative Reviews, 76 FR 70965*, November 16, 2011, *and 76 FR 59999*, September 8, 2011.

TABLE 2.4 Certain polyethylene bags (HTS subheading 3923.21.00): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
China	536,948,630	577,061,408	470,338,224	574,317,590	619,443,534
Canada	387,266,056	385,062,501	340,434,357	386,973,775	420,805,723
Mexico	66,931,504	79,901,883	99,367,919	137,367,131	148,518,127
Thailand	135,219,391	170,867,608	97,091,025	120,479,934	126,262,622
Malaysia	42,739,647	56,216,816	46,456,464	63,990,098	82,291,603
Taiwan	92,192,274	127,921,060	73,591,510	63,220,732	68,236,327
Korea	31,188,219	36,073,361	34,851,264	41,122,509	56,745,279
India	10,292,899	12,794,756	14,905,073	17,662,349	20,254,117
Hong Kong	16,006,619	13,863,512	11,148,012	16,089,304	19,422,595
Sri Lanka	18,368,439	19,868,009	11,804,660	13,843,361	18,678,311
All other	242,829,645	247,110,831	164,315,529	125,853,380	132,679,932
Total	1,579,983,323	1,726,741,745	1,364,304,037	1,560,920,163	1,713,338,170
Imports from GSP-eligible countries:					
Thailand	([a])	([a])	([a])	([a])	([a])
India	10,292,899	12,794,756	14,905,073	17,662,349	20,254,117
Sri Lanka	18,368,439	19,868,009	11,804,660	13,843,361	18,678,311
Philippines	8,072,261	5,563,744	6,126,657	10,131,487	14,988,673
Turkey	9,206,235	8,730,781	5,830,758	6,871,997	8,227,236
Cambodia	0	1,122	162,285	4,675,974	8,175,810
Brazil	7,576,720	7,233,470	6,078,519	4,760,187	5,666,277
Ecuador	322,461	231,553	589,229	2,380,418	2,906,750
Indonesia	48,857,137	48,355,587	19,295,271	3,628,484	2,277,494
Colombia	4,670,166	2,589,651	1,497,216	1,280,128	1,449,650
All other	3,534,839	2,766,542	2,100,493	2,410,601	1,876,182
Total	110,901,157	108,135,215	68,390,161	67,644,986	84,500,500

Source: Official statistics of the U.S. Department of Commerce.

[a] Thailand is not eligible for duty-free treatment for this HTS subheading under the provisions of the GSP.

TABLE 2.5 Reclosable pinch-seal bags (HTS 3923.21.0030): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	July–December 2011
			In actual $		
China	0	0	0	0	53,692,897
Canada	0	0	0	0	30,581,485
Thailand	0	0	0	0	18,647,278
Mexico	0	0	0	0	11,217,025
Korea	0	0	0	0	5,665,544
Taiwan	0	0	0	0	3,198,634
United Kingdom	0	0	0	0	2,293,788
Malaysia	0	0	0	0	941,022
India	0	0	0	0	506,155
Vietnam	0	0	0	0	122,427
All other	0	0	0	0	363,582
Total	0	0	0	0	127,229,837
Imports from GSP-eligible countries:					
Thailand	0	0	0	0	([a])
India	0	0	0	0	506,155
Brazil	0	0	0	0	68,834
Turkey	0	0	0	0	43,777
Pakistan	0	0	0	0	1,100
Jordan	0	0	0	0	438
Colombia	0	0	0	0	370
Total	0	0	0	0	620,674

Source: Official statistics of the U.S. Department of Commerce.

[a] This 10-digit HTS was broken out on July 1, 2011. Thailand is not eligible for duty-free treatment for this subheading. This 10-digit subheading is for statistical purposes only.

During the period 2007–11, U.S. exports of all types of polyethylene bags ranged from $453 million to $518 million annually (table 2.6). The leading U.S. export markets were Canada and Mexico, which accounted for about 70 percent of total exports of polyethylene bags. Exports of all polyethylene bags are reported at a higher level of aggregation than for U.S. imports at the 10-digit HTS statistical reporting level. Therefore, specific export data for reclosable pinch-seal bags are not available.

TABLE 2.6 Certain polyethylene bags: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Canada	205,174,551	218,596,860	198,928,376	222,899,028	250,128,919
Mexico	107,256,336	120,815,220	112,992,009	123,243,424	120,957,414
Japan	17,827,965	15,312,519	13,669,173	16,211,145	18,086,360
United Kingdom	10,482,950	8,954,270	4,079,700	7,855,921	12,550,256
Dominican Republic	8,674,177	13,272,245	7,555,747	10,606,581	12,093,248
China	8,089,608	7,267,608	6,549,991	8,831,314	6,974,499
Belgium	2,029,953	5,428,422	5,170,637	3,589,331	6,178,281
Australia	4,269,536	4,325,425	3,633,041	3,635,031	5,123,873
Ireland	5,381,894	5,400,673	3,653,363	3,869,259	4,724,042
France	4,536,101	5,868,656	2,513,963	5,185,549	4,663,940
All other	79,765,648	75,989,746	68,631,227	72,390,282	76,065,783
Total	453,488,719	481,231,644	427,377,227	478,316,865	517,546,615

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

Petitioner: The petitioners are S.C. Johnson, a U.S. producer of reclosable pinch-seal bags, with a subsidiary and contract production in Thailand, and the Government of Thailand. S.C. Johnson stated that expanding GSP benefits to allow duty-free treatment for reclosable pinch-seal bags under a new HTS subheading from Thailand will result in benefits for Thailand, U.S. consumers, and U.S. retailers without damaging U.S. manufacturing. S.C. Johnson also stated that several U.S. producers of pinch-seal bags, including S.C. Johnson, maintain production facilities or manufacturing relationships in Thailand, which would allow them to also benefit from this petition.[18]

S.C. Johnson stated that it has invested heavily in Thailand with a subsidiary and purchase agreements with three Thai suppliers of reclosable pinch-seal bags, which collectively account for more than 1,000 employees and generate millions in revenue for the local economy. S.C. Johnson reported that it has expanded its investment, relying on its Thai suppliers to provide additional product lines, both for domestic consumption and for export to the U.S. market, but recently it has experienced losses because of delayed shipments caused by flooding in 2011. The continuous growth and competitiveness of this industry, according to S.C. Johnson, is highly dependent on Thailand's exports to the U.S. market under the GSP program.

[18] Petition submitted to the USTR by Crowell & Moring on behalf of S.C. Johnson & Son, Inc., December 5, 2011.

Opposition: Webster Industries, a U.S. producer of reclosable pinch-seal bags, said that it would be unfair to grant GSP concessions to S.C. Johnson's Ziploc branded products, which accounted for a 44.7 percent share of the U.S. market for pinch-seal bag sales in 2011. Webster stated that S.C. Johnson has a virtual monopoly position among branded pinch-seal bags, with Clorox's Glad brand ranking a distant second with a market share of only 5.4 percent. Private label brands are supplied by U.S. manufacturers such as Webster, Presto, and Illinois Tool Works Co. Webster stated that the elimination of a tariff in the case of Thailand would not help a struggling participant in the market like itself, but rather boost the position of the dominant company in the market at the expense of its U.S. competitors such as Webster. In 2011, Webster reported a loss in pinch-seal bag volume and margin due to competitive forces, resulting in the layoff of 15 percent of its employees at its Montgomery, AL, manufacturing plant. Based on market conditions, a $6 to $9 million investment plan is now reportedly on hold.[19] Webster further asserted that the GSP program was intended to assist impoverished developing economies and that it was not intended to provide a competitive advantage to the dominant producer in the market at the expense of other U.S. manufacturers.[20]

The Clorox Company said that it is a domestic producer of branded Glad reclosable polyethylene pinch-seal bags and that it employs over 120 production and research personnel at its Glad bag production facilities in Amherst, VA, and Rogers, AR. Clorox stated that the U.S. market for pinch-seal bags has been stressed by the economy, and that its energy and raw materials costs have increased. Clorox stated that it does not currently outsource its production of pinch-seal bags sold in the United States, and would not benefit from the petition. The firm stated that Clorox is a domestic producer of the subject product and in direct competition with petitioner's Ziploc brand product produced in Thailand.[21] Clorox also stated that S.C. Johnson's petition did not meet the minimum requirements to request an addition of a new HTS subheading to the GSP. Clorox stated that it has urged USTR to dismiss the petition.

[19] USITC hearing transcript, 18–19, March 30, 2012

[20] Opposition brief submitted to the USTR on behalf of Webster Industries (Webster) by Honigman Miller Schwartz and Cohn LLP, March 15, 2012.

[21] Submission to the U.S. International Trade Commission by the Clorox Company regarding inv. no. 332-529, April 4, 2012.

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CHAPTER 3
Certain Un-carded and Un-combed Cotton

Addition (Least-Developed Beneficiary Developing Countries)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan.1, 2012	Like or directly competitive article produced in the United States on Jan. 1, 1995?
5201.00.18[a]	Out-of-quota cotton, not carded or combed, with a staple length less than 28.575 millimeters (mm) (1 1/8 inches)	31.4¢ per kilogram	Yes
5201.00.22[a]	Non-commercial cotton, not carded or combed, with a staple length of 28.575 mm (1 1/8 inches) or more but less than 34.925 mm (1 3/8 inches)	4.4¢ per kilogram	Yes
5201.00.24[a]	In-quota white cotton, not carded or combed, with a staple length of 29.36875 mm (1 5/32 inches) or more but less than 34.925 mm (1 3/8 inches)[b]	4.4¢ per kilogram	Yes
5201.00.28[a]	Out-of-quota white cotton, not carded or combed, with a staple length of 29.36875 mm (1 5/32 inches) or more but less than 34.925 mm (1 3/8 inches)	31.4¢ per kilogram	Yes
5201.00.34[a]	In-quota cotton, not carded or combed, with a staple length of 28.575 mm (1 1/8 inches) or more but less than 34.925 mm (1 3/8 inches)[b]	4.4¢ per kilogram	Yes
5201.00.38[a]	Out-of-quota cotton, not carded or combed, with a staple length of 28.575 mm (1 1/8 inches) or more but less than 34.925 mm (1 3/8 inches)	31.4¢ per kilogram	Yes

[a] These HTS subheadings are not currently eligible for duty-free treatment under the provisions of the GSP.
[b] Imports entered under HTS subheading 5201.00.24 shall not exceed 1,400.0 metric tons (mt) during the 12-month period from August 1 in any year through July 31 of the following year. See HTS chapter 52, additional U.S. note 6. Imports entered under subheading 5201.00.34 shall not exceed 11,500.0 mt during the 12-month period from August 1 in any year through July 31 of the following year. See HTS chapter 52, additional U.S. note 7.

The subject cotton can be divided into two types based on staple length: cotton that is less than 1 1/8 inch (HTS subheading 5201.00.18), and cotton that is 1 1/8 inches or longer, but not longer than 1 3/8 inch (HTS subheadings 5201.00.22, 5201.00.24, 5201.00.28,

[1] The USTR self-initiated a review of these HTS subheadings for possible addition to the list of products eligible for duty-free treatment under the provisions of the GSP for such products from least-developed beneficiary developing countries (LDBDCs).

5201.00.34, and 5201.00.38).[2] The subject cotton is the upland variety which has been ginned, but not otherwise processed.[3] [4] The vast majority of subject cotton is spun into yarn for use in the production of knit or woven textiles and apparel products, although a small portion is used in industrial textile products such as nonwoven fabrics and industrial thread.[5] Spinners combine cotton of different lengths to create specific yarn consistency depending on the type of apparel or textile product for which it is used.[6]

Advice

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Profile of U.S. Industry and Market, 2007–11

Between 17,000 and 18,000 farmers produce upland cotton in the United States. Production is centered in the states of Texas, Kansas, Oklahoma, Alabama, Florida, Georgia, North Carolina, South Carolina, Arkansas, Louisiana, Mississippi, Missouri, Tennessee, and Virginia.[7] Texas is the largest cotton-producing state, averaging 38 percent of total U.S. production during 2007–11.[8]

Subject cotton can be grown in any of the cotton-producing states. Staple length is primarily affected by the variety of cotton planted and growing conditions, especially weather. Average staple length varies by region, and upland cotton produced in the southwest and west tends to have a longer staple length.[9] Weather conditions also affect cotton production levels. Adverse weather conditions, such as the drought in the

[2] Some of the second (longer staple length) types of subject cotton (HTS 5201.00.24 and 5201.00.28) are also characterized as white cotton. The whiter the cotton, the better it absorbs and holds dyes and finishes; also, white cotton generally has a higher fiber strength than cotton that is more yellow. As a result, whiter cotton generally has a higher price, as does cotton that has a longer staple length. USITC, *Cotton*, January 2001; Cotton Counts, "Cotton: From Field to Fabric" (accessed March 1, 2011); government official, interview with USITC staff, Washington DC, March 5, 2012. With regard to HTS subheading 5201.00.18, it does not cover cotton that is shorter than 19.05mm (3/4 inches) and is harsh or rough. Such cotton is classified under HTS subheading 5201.00.05.

[3] The two varieties of cotton grown in the United States are upland and extra-long staple (ELS) cotton (otherwise known as American Pima). About 96 percent of U.S. production is upland cotton. ELS cotton is generally 1 1/2 inches or longer and is mainly grown in California. Meyer, MacDonald, and Foreman, *Cotton Backgrounder*, March 2007; USDA, ERS, *Cotton and Wool Yearbook 2011*, November 2011, appendix tables 7 and 9. Ginning is done both by farmer-owned cooperatives, like the Plains Cotton Cooperative Association, and by corporations, like Dunavant and Cargill.

[4] Ginning is the process by which cotton is dried and cleaned to remove particles such as dirt and stem, the seeds are separated from the lint, and the lint is compressed into bales. USDA, ERS, "Briefing Room: Cotton: Background" (accessed February 27, 2012).

[5] Government official, interview with USITC staff, Washington DC, March 5, 2012: USITC, *Cotton*, January 2001, 4. Spinners buy cotton bales of varying staple lengths and whiteness, which are combined to make the desired quality of thread. Government official, interview with USITC staff, Washington DC, March 5, 2012.

[6] For example, cotton with a shorter staple length is used to make denim.

[7] A small amount of upland cotton is also produced in the western states of Arizona, California, and New Mexico.

[8] USDA, ERS, *Cotton and Wool Yearbook 2011*, November 2011, appendix table 7.

[9] Cotton Council International, "2011 Buyers Guide: Regions of U.S. Cotton Production" (accessed March 1, 2012); Cotton Council International, "2009 Buyers Guide: Regions of U.S. Cotton Production" (accessed March 1, 2012). The southwest cotton region comprises Texas, Kansas, and Oklahoma.

southwestern United States which began in 2010, can cause crop losses, lower yields, and result in poorer-quality cotton.[10] Annual cotton production also depends on the area planted. Factors affecting farmers' decisions to plant cotton include the price of cotton compared to other crops which could be planted on the same land, such as soybeans, peanuts, and wheat.

The volume of U.S. cotton production fluctuated during 2007–11, which is consistent with historical trends.[11] The United States is the third-largest producer of cotton in the world after China and India.[12] The long-term decline of U.S. textile and apparel production has decreased domestic consumption of cotton, both in absolute terms and as a ratio of production.[13] U.S. cotton consumption peaked in marketing year (MY) 1997/98 and was 70 percent lower by MY 2010/11. Between MY 2006/07 and MY 2010/11, U.S. cotton consumption fell 22 percent. In that period, approximately 25 percent of U.S. cotton production was consumed domestically; during the 1990s, 60 percent of U.S. production was consumed domestically. As a result of the decline in U.S. consumption, about three-quarters of U.S. cotton is exported.[14]

As reflected in tables 3.1 and 3.2, industry trends for both cotton types (short and longer staple length) were similar during 2007–11. For both types of subject cotton, the number of producers (farmers) declined between 2007 and 2010 before rising slightly in 2011. In 2010, the value of U.S. shipments reached their highest level during the period because of both higher production levels and historically high cotton prices that lasted into early 2011.[15] In 2011, production fell and prices began to decline, although they remained high relative to the earlier years of the period.[16] Like U.S. shipments, the value of U.S. consumption was highest during the period of review in 2010 and 2011, largely due to higher cotton prices. Because the United States is self-sufficient in cotton production, its imports were negligible during 2007–11.

[10] See, for example, Koopel and Gilbert, "Even after Rain, Texas Drought Persists," February 6, 2012; USDA, ERS, *Cotton and Wool Outlook*, June 10, 2011, 1; The Drought Monitor, http://droughtmonitor.unl.edu/.

[11] Based on production quantity from marketing year (MY) 2006/07 to MY 2010/11. USDA, PSD Online (accessed March 16, 2012).

[12] China accounted for approximately 30 percent of global production, India for 22 percent, and the United States for 14 percent. USDA, PSD Online (accessed March 12, 2012).

[13] USDA, ERS, "Cotton: Background" (accessed March 13, 2012).

[14] Based on volume. USDA, PSD Online (accessed March 16, 2012). The cotton marketing year is from August to July.

[15] High prices in 2010–11 were the result of low supplies but strong demand. Cotton stock levels and stock-to-use ratios were both the lowest since MY 1995/96. Global supplies were also reduced by the Indian government's temporary ban on cotton exports and by floods in Pakistan, typically the fourth-largest cotton producer. USDA, ERS, *Cotton and Wool Outlook*, September 13, 2010, 3; USDA, ERS, *Cotton and Wool Outlook*, April 11, 2011, 5; USDA, FAS, PSD Online (accessed May 9, 2012).

[16] Commodity Online, "Cotton Prices Fall," June 2, 2011.

TABLE 3.1 Cotton with a staple length of less than 1 1/8 inches (HTS subheading 5201.00.18): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers[a] (*number*)	18,033	17,834	17,300	17,248	17,742
Employment (*1,000 employees*)	54	54	52	52	53
Shipments[b] *(1,000 dollars*)	2,099,586	1,126,741	1,425,414	2,766,333	2,638,449
Exports (*1,000 dollars*)	([c])	([c])	([c])	([c])	([c])
Imports[d] (*1,000 dollars*)	2,761	103	21	0	6,989
Consumption[e] (*1,000 dollars*)	581,185	442,400	383,327	539,870	704,894
Import-to-consumption ratio (*percent)*	0	0	0	[(f)]	1
Capacity utilization (*percent*)	([g])	([g])	([g])	([g])	([g])

Source: Number of producers, employment, shipments, consumption, and capacity utilization estimated by Commission staff from various industry sources; imports compiled from official statistics of the U.S. Department of Commerce.

[a] Production focuses on the farm level, and therefore farmers are the producers. All farmers of upland cotton can produce both types of subject cotton; therefore, producers and employment numbers are the same in both table 3.1 and table 3.2.

[b] Shipment values based on farm gate prices.

[c] Export data are not comparable with data on shipments and thus are not reflected here.

[d] Imports were based on HTS subheadings 5201.00.12, 5201.00.14, and 5201.00.18. These three HTS numbers capture all cotton imports with a staple length of less than 1 1/8 inches, which are more comparable than only the out-of-quota imports captured in HTS subheading 5201.00.18 to the data for shipments and domestic consumption.

[e] Consumption has been estimated using data based on cotton marketing year. U.S. domestic consumption is approximately one-quarter of U.S. production.

[f] Not available.

[g] There is no set capacity for field crops like cotton because production levels depend on planted area and yields, both of which change yearly.

TABLE 3.2 Cotton with a staple length of 1 1/8 inches or more but less than 1 3/8 inches (HTS subheadings 5201.00.22, 5201.00.24, 5201.00.28, 5201.00.34, and 5201.00.38): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers[a] (*number*)	18,033	17,834	17,300	17,248	17,742
Employment (*1,000 employees*)	54	54	52	52	53
Shipments[b] *(1,000 dollars*)	3,149,378	1,690,111	2,138,120	4,149,500	3,957,674
Exports (*1,000 dollars*)	([c])	([c])	([c])	([c])	([c])
Imports (*1,000 dollars*)	771	1,283	0	1,336	82
Consumption[d] (*1,000 dollars*)	871,777	663,600	574,990	809,806	1,057,341
Import-to-consumption ratio (*percent)*	0	0	([e])	0	0
Capacity utilization (*percent*)	([f])	([f])	([f])	([f])	([f])

Source: Number of producers, employment, shipments, consumption, and capacity utilization estimated by Commission staff from various industry sources; imports compiled from official statistics of the U.S. Department of Commerce.

[a] Production focuses on the farm level, and therefore farmers are the producers. All farmers of upland cotton can produce both types of subject cotton; therefore, producers and employment numbers are the same in both table 3.1 and table 3.2.

[b] Shipment values based on farm gate prices.

[c] Export data are not comparable with data on shipments and thus are not reflected here.

[d] Consumption has been estimated using data based on cotton marketing year. U.S. domestic consumption is approximately one-quarter of U.S. production.

[e] Not available.

[f] There is no set capacity for field crops like cotton because production levels depend on planted area and yields, both of which change yearly.

GSP Import Situation, 2011

Total U.S. imports under the subject HTS subheadings were negligible.[17] In 2011, there were no imports of subject cotton from any LDBDCs.

U.S. Imports and Exports

Tables 3.3 through 3.7 provide import data for the subject HTS subheadings.[18] Imports of subject products fluctuated significantly during 2007–11, from zero in 2009 to $1.3 million in 2010. However, as stated above, subject imports accounted for a negligible share of U.S. consumption.

TABLE 3.3 Subject cotton total (HTS subheadings 5201.00.18, 5201.00.22, 5201.00.24, 5201.00.28, 5201.00.34, and 5201.00.38): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Egypt	603,987	0	0	1,289,642	81,059
China	0	0	0	0	1,046
Germany	0	420	0	0	500
Uganda	52,542	0	0	0	0
India	114,470	0	0	0	0
All other	0	1,282,788	0	46,780	0
Total	770,999	1,283,208	0	1,336,422	82,605
Imports from LDBDC GSP-eligible countries:					
Uganda	52,542	0	0	0	0
Total	52,542	0	0	0	0

Source: Official statistics of the U.S. Department of Commerce.

Note: There were no imports under HTS 5201.00.24 and 5201.00.38 during 2007–11.

TABLE 3.4 Cotton, not carded or combed with a staple length less than 28.575 mm (1 1/8 inches) (HTS subheading 5201.00.18): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
China	0	0	0	0	1,046
Canada	0	314	0	0	0
Total	0	314	0	0	1,046

Source: Official statistics of the U.S. Department of Commerce.

[17] There were no imports from any country under HTS 5201.00.24, 5201.00.28, and 5201.00.38 in 2011.
[18] There were no imports under HTS subheadings 5201.00.24 and 5201.00.38 during 2007–11.

TABLE 3.5 Cotton, not carded or combed (non-commercial cotton), with a staple length of 28.575 mm (1 1/8 inches) or more but less than 34.925 mm (1 3/8 inches) (HTS subheading 5201.00.22): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Germany	0	420	0	0	500
Australia	0	0	0	46,358	0
Turkey	0	1,282,189	0	0	0
Egypt	0	0	0	2,598	0
Total	0	1,282,609	0	48,956	500

Source: Official statistics of the U.S. Department of Commerce.

TABLE 3.6 White cotton, not carded or combed (out-of-quota), with a staple length of 29.36875 mm (1 5/32 inches) or more but less than 34.925 mm (1 3/8 inches) (HTS subheading 5201.00.28): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Costa Rica	0	0	0	422	0
Total	0	0	0	422	0

Source: Official statistics of the U.S. Department of Commerce.

TABLE 3.7 Cotton not carded or combed (in-quota cotton), staple length of 28.575 mm (1 1/8 inches) or more but less than 34.925 mm (1 3/8 inches) (HTS subheading 5201.00.34): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
	In Actual $				
Egypt	603,987	0	0	1,287,044	81,059
Uganda	52,542	0	0	0	0
Brazil	0	285	0	0	0
India	114,470	0	0	0	0
Total	770,999	285	0	1,287,044	81,059
Imports from LDBDC GSP eligible countries:					
Uganda	52,542	0	0	0	0
Total	52,542	0	0	0	0

Source: Official statistics of the U.S. Department of Commerce.

With the exception of 2008, the majority of total subject U.S. cotton imports were of HTS 5201.00.34 (in-quota cotton that is 1 1/8 inches or more, but less than 1 3/8 inches) from Egypt (tables 3.3–3.7). During 2007–10, U.S. imports of subject cotton from a LDBDC GSP-eligible country consisted only of imports from Uganda in 2007, which that year made up approximately 7 percent of total subject cotton imports.[19]

[19] Although there were imports from only one eligible LDBDC over the period, there are cotton producers among the LDBDCs. Based on USDA data, the top 10 LDBDC cotton producers in MY 2011/12 were: Mali, Burkina Faso, Benin, Tanzania, Zambia, Malawi, Uganda, Mozambique, Togo, and Chad.

Export data are provided in tables 3.8 and 3.9. The HTS classifications of U.S. cotton exports do not correspond with subject cotton imports.[20] During 2007–11, exports of cotton that is less than 1 1/8 inches but is more than one inch accounted for approximately 60 percent of total U.S. cotton exports, with the remaining 40 percent being of cotton that is longer than 1 1/8 inches (table 3.8 and 3.9). During 2007–11, almost 60 percent of all U.S. cotton exports less than 1 1/8 inches but more than one inch were to China, Mexico, and Turkey, while almost 50 percent of U.S. cotton exports 1 1/8 inches or more were to China and Turkey.

TABLE 3.8 Cotton not carded or combed: having a staple length under 28.58 mm (1 1/8 inches) and over 25.4 mm (1 inch): U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
China	946,275,677	870,731,571	325,697,404	1,173,271,823	956,064,002
Mexico	259,309,577	266,544,384	251,899,452	338,452,088	620,470,029
Turkey	641,178,168	414,142,576	316,731,034	494,471,981	585,675,735
Brazil	35,221,434	22,962,691	10,186,915	32,237,466	220,711,087
Thailand	125,971,114	181,429,266	95,441,693	137,084,227	194,822,994
Vietnam	78,042,976	161,270,043	136,499,090	187,454,645	184,351,343
Indonesia	222,874,037	270,081,294	118,069,294	119,569,944	176,694,020
Colombia	51,640,929	46,148,583	35,629,604	61,871,916	113,610,309
Bangladesh	49,494,416	68,211,378	58,236,610	100,838,467	100,541,808
El Salvador	38,385,595	45,822,073	31,790,321	50,068,262	83,953,754
All other	577,751,904	567,406,380	380,759,353	482,510,304	534,453,833
Total	3,026,145,827	2,914,750,239	1,760,940,770	3,177,831,123	3,771,348,914

Source: Official statistics of the U.S. Department of Commerce.

[20] Specifically, in table 3.8 exports are defined as cotton that is less than 1 1/8 inches but is more than one inch, whereas imports under HTS subheading 5201.00.18 can be less than one inch. However, any cotton that is less than 3/4 inch and is harsh or rough would be classified under HTS subheading 5201.00.05. Table 3.9 reflects cotton that is 1 1/8 inches or longer, similar to the second type of subject cotton (imported under subheadings HTS 5201.00.22, 5201.00.24, 5201.00.28, 5201.00.34, and 5201.00.38), but also may include other types of cotton, including cotton that has a longer staple length.

TABLE 3.9 Cotton not carded or combed, having a staple length 28.58 mm (1 1/8 inches) or more, except American Pima: U.S. exports of domestic merchandise, by market, 2007–11[a]

Country	2007	2008	2009	2010	2011
			In actual $		
China	289,084,898	537,752,714	317,926,430	657,314,025	1,359,246,266
Turkey	92,672,217	98,423,794	133,388,392	303,644,601	492,619,834
Indonesia	78,869,188	141,318,715	92,293,471	140,129,263	320,085,792
Korea	39,498,019	42,356,378	19,804,116	49,656,637	243,407,094
Bangladesh	5,586,433	22,486,697	49,906,605	57,913,166	189,783,587
Pakistan	59,943,321	31,906,168	71,406,389	62,933,871	172,389,621
Vietnam	6,885,429	25,630,835	29,654,602	51,753,339	169,260,023
Thailand	39,949,325	57,378,601	39,942,653	73,388,267	164,567,800
Mexico	150,000,104	187,746,209	132,738,449	250,708,452	148,768,872
Peru	8,384,957	11,798,672	25,989,947	77,638,235	135,808,252
All other	155,916,609	153,742,310	236,516,044	219,845,588	456,214,538
Total	926,790,500	1,310,541,093	1,149,567,098	1,944,925,444	3,852,151,679

Source: Official statistics of the U.S. Department of Commerce.

[a] The increase in U.S. cotton exports in 2010 and 2011 was due in part to higher cotton prices in 2010 and early 2011. See page 3-6 for further discussion.

Position of Interested Parties

Petitioner: The USTR self-initiated a review of these HTS subheadings for possible addition to the list of products eligible for duty-free treatment under the provisions of the GSP for LDBDCs.

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP for these HTS subheadings.

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CHAPTER 4
Certain Cotton Waste and Carded or Combed Cotton Fibers

Addition (Least-Developed Beneficiary Developing Countries)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem or specific)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
5202.91.00[a]	Garnetted stock	4.3	Yes
5202.99.30[a]	Card strips made from cotton of a staple length under 30.1625 mm, lap waste, sliver waste and roving waste, not subject to quantitative limits	7.8 ¢ per kilogram	Yes
5203.00.05[a]	Carded or combed cotton fibers, processed but not spun, not entered into commercial channels	5.0	Yes
5203.00.10[a]	Carded or combed cotton fibers, processed but not spun, subject to quantitative limits [b]	5.0	Yes
5203.00.30[a]	Carded or combed cotton fibers, processed but not spun, not subject to quantitative limits	31.4 ¢ per kilogram	Yes
5203.00.50[a]	Carded or combed cotton fibers, other than fibers processed but not spun	4.3	Yes

[a] These HTS subheadings are not currently eligible for duty-free treatment under the provisions of the GSP.
[b] Imports under this HTS subheading shall not exceed 3,335,427 kilograms during the 12-month period from September 20 in any year through September 19 of the following year. See HTS chapter 52, additional U.S. note 9.

Cotton waste is short-fiber cotton that is a byproduct of the various procedures ginned cotton goes through to prepare it and make it suitable for spinning into yarn. Carded or combed cotton fibers are fibers that have been through the carding or combing processes, intermediate steps in the yarn production process.

In yarn production, bales of ginned cotton are opened, blended, and fed into cleaning and carding machines. Carding is the mechanical process that disentangles the cotton fibers to

[1] The USTR self-initiated a review of these HTS subheadings for possible addition to the list of products eligible for duty-free treatment under the provisions of the GSP for such products from least-developed beneficiary developing countries (LDBDCs).

prepare them for spinning and is done by passing the fibers between rollers covered with fine teeth. Carding opens, cleans, and aligns the cotton fibers so that they are parallel with each other. Combing is an extra step that takes place after carding in which existing short fibers are removed and the remaining fibers are further cleaned, straightened, and aligned. The carding and combing machines produce an untwisted rope of cotton called sliver, which is collected in a container and then fed into subsequent processes. One such process is drawing, which blends multiple strands of sliver together. Another is roving, whereby sliver is fed through two sets of rollers, which reduce the sliver to a suitable size for spinning into yarn and insert twist into the strand.

Garnetted stock (HTS subheading 5202.91.00) is cotton waste that has been combed and formed into a thin web by a garnetting machine.[2] The webs are often layered to create cotton batting material that is used in the upholstery industry, as stuffing material, or for mattresses. Card strips made from cotton of a staple length under 30.1625 mm, lap waste, sliver waste, and roving waste (HTS subheading 5202.99.30) are produced as a byproduct of the carding, combing, and subsequent processing described above. Such waste may be reprocessed into the yarn production cycle, or used as fill material, to make batting, or in the manufacture of nonwoven products. Carded or combed cotton fibers (HTS subheadings 5203.00.05, 5203.00.10, 5203.00.30, and 5203.00.50) are used in the downstream production of yarn or sewing thread.

Advice

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Profile of U.S. Industry and Market, 2007–11

As noted, cotton waste is a byproduct of the yarn manufacturing process, while carded and combed cotton fibers are produced in the early stages of yarn production. Therefore, yarn spinners are the largest category of producers of all of the subject products. There are roughly 130 companies producing carded or combed cotton yarn and thread in the United States, with most producers located in the state of North Carolina (tables 4.1 and 4.2).[3] The number of dedicated carded or combed cotton fiber producers, as well as the number of producers of regenerated cotton waste, is unknown but believed to be small.

[2] Garnetted stock may also include fabric clippings that are passed through a garnetting machine in order to break up the material and restore it to a fibrous condition known as "regenerated fibers."

[3] There may also be dedicated carded or combed cotton fiber producers that do not use the fibers in downstream production of yarn but sell them to yarn mills or other end users, and also producers of regenerated waste that obtain fabric clippings or other cotton materials from producers (such as apparel firms) and regenerate them back into useable cotton fibers.

TABLE 4.1 Certain cotton waste (HTS subheadings 5202.91.00 and 5202.99.30): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*) [a]	***	***	***	***	***
Employment (*1,000 employees*) [a]	***	***	***	***	***
Shipments *(1,000 dollars*) [b]	***	***	***	***	***
Exports (*1,000 dollars*)	18,797	6,238	5,745	16,383	19,310
Imports (*1,000 dollars*)	1,323	1,930	1,466	1,276	2,515
Consumption (*1,000 dollars*)	***	***	***	***	***
Import-to-consumption ratio (*percent)*	***	***	***	***	***
Capacity utilization (*percent*)	([c])	([c])	([c])	([c])	([c])

Source: Number of producers, employment, and shipments, estimated by Commission staff from various sources; exports and imports compiled from official statistics of the U.S. Department of Commerce.

[a] Figures for number of producers and employment are for carded and combed cotton yarn manufacturers, as these firms are the primary producers of the subject products.
[b] Shipment data reflect staff estimates based on limited information; data are adequate for estimation with a low degree of confidence.
[c] Not available.

TABLE 4.2 Carded or combed cotton fibers (HTS subheadings 5203.00.05, 5203.00.10, 5203.00.30, and 5203.00.50): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*) [a]	***	***	***	***	***
Employment (*1,000 employees*) [a]	***	***	***	***	***
Shipments *(1,000 dollars*)	([b])	([b])	([b])	([b])	([b])
Exports (*1,000 dollars*)	113,641	98,236	75,712	55,291	46,213
Imports (*1,000 dollars*)	1,188	556	1,178	2,176	1,551
Consumption (*1,000 dollars*)	([b])	([b])	([b])	([b])	([b])
Import-to-consumption ratio (*percent)*	([b])	([b])	([b])	([b])	([b])
Capacity utilization (*percent*)	([b])	([b])	([b])	([b])	([b])

Source: Number of producers and employment estimated by Commission staff from various sources; exports and imports compiled from official statistics of the U.S. Department of Commerce.

[a] Figures for number of producers and employment are for carded and combed cotton yarn manufacturers, as these firms are the primary producers of the subject products.
[b] Not available.

There are no publicly available data on production or consumption of the subject cotton waste and carded or combed cotton fibers. The United States is a major world producer of cotton yarns, and in general, cotton fibers are consumed within the vertical operations of yarn spinners. Production and demand for carded or combed cotton fibers is therefore linked to yarn production. Domestic production of carded and combed cotton yarns totaled $2.1 billion in 2010, the latest year for which data are available, up 6 percent from 2009.[4] It is estimated that approximately 2 percent of the cotton consumed by textile mills in the yarn production process ends up as waste.[5]

[4] U.S. Department of Commerce, U.S. Census Bureau, *2010 Annual Survey of Manufacturers* (accessed March 26, 2012). Data are for NAICS codes 3131111 and 3131113.
[5] Pollution Prevention Regional Information Center, "Cotton Fiber Processing Waste," June 1995.

GSP Import Situation, 2011

In 2011, there were no U.S. imports from GSP LDBDCs of certain cotton waste products classified under HTS subheadings 5202.91.00 and 5202.99.30,[6] nor were there any U.S. imports of these products from LDBDCs during the preceding four-year period 2007–10. Similarly, there were no U.S. imports of carded or combed cotton fibers (classified under HTS subheadings 5203.00.05, 5203.00.10, 5203.00.30, and 5203.00.50) from LDBDCs in 2011. During 2007–10, there was one shipment (in 2010) totaling just $1,400 from Haiti to the United States of carded or combed cotton fibers, other than fibers that have been processed but not spun (HTS 5203.00.50).[7] Such imports accounted for less than one-half of 1 percent of total U.S. imports under HTS 5203.00.50 in 2010.

U.S. Imports and Exports

The United States is a net exporter of certain cotton waste and carded or combed cotton fibers. Data for total U.S. imports and exports of the subject products are found in tables 4.3–4.10. Primary suppliers to the United States of cotton waste in the form of garnetted stock (HTS 5202.91.00) were Spain and Honduras in 2011; these countries accounted for 92 percent of total U.S. imports of $2.5 million. There were no U.S. imports from any source in 2011 of card strips made from cotton of a staple length under 30.1625 mm, lap waste, sliver waste, and roving waste classified under HTS 5202.99.30. U.S. imports of carded or combed cotton fibers totaled $1.6 million in 2011 and consisted primarily of carded or combed cotton fibers, processed but not spun, entered under HTS 5203.00.30 (covering over-quota and free trade agreement (FTA) imports) and carded or combed fibers, other than those processed but not spun (HTS 5203.00.50). Imports under these two subheadings accounted for 55 percent and 44 percent, respectively, of total U.S. imports of carded or combed cotton fibers in 2011. Switzerland and the North American Free Trade Agreement (NAFTA) partners, Canada and Mexico, were major sources of imports of carded or combed cotton fibers. As previously noted, there were no imports of any of these products from LDBDCs in 2011.

U.S. exports of cotton waste in the form of garnetted stock totaled just $346,369 in 2011, with Mexico and China being the largest destinations for such exports. Mexico, Canada, Italy, and Hong Kong were the largest markets for U.S. exports of cotton waste in the form of card strips of cotton having a staple length under 30.1625 mm, lap waste, sliver

[6] Imports of card strips having a staple length under 30.1625 mm, lap waste, sliver waste, and roving waste can enter the United States under three HTS subheadings: 1) 5202.99.05, covering imports that do not enter commercial channels; 2) 5202.99.10, covering imports subject to quantitative limits (totaling 2,500 kilograms for the 12-month period from September 11 in any year through September 10 of the following year); and 3) HTS 5202.99.30, covering over-quota imports (as well as imports from free trade agreement (FTA) partners). Imports under HTS subheadings 5202.99.05 and 5202.99.10 currently enter the United States free of duty and are not subject to this GSP review. As imports would only enter under 5202.99.30 if the quota level under 5202.99.10 were filled and exceeded, staff examined imports under the entire HTS 6-digit subheading 5202.99 to see whether LDBDCs were shipping the product to the United States under the other HTS subheadings. However, during 2007–11, there were no imports from LDBDCs under any of the subheadings under 5202.99.

[7] Imports from Haiti under 5203.00.50 occurred solely in February 2010. During the remainder of 2010, there were no other imports from Haiti of carded or combed cotton fibers, other than fibers that have been processed but not spun.

TABLE 4.3 Cotton garnetted stock (HTS subheading 5202.91.00): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Spain	1,092,245	1,266,692	1,235,223	1,088,300	1,371,207
Honduras	0	0	0	0	953,429
Mexico	22,642	560,563	166,721	155,871	179,725
Portugal	0	0	0	0	9,049
Italy	0	0	0	0	1,300
Guatemala	86,313	36,471	0	0	0
Canada	121,891	66,558	0	0	0
All other	0	0	63,980	32,301	0
Total	1,323,091	1,930,284	1,465,924	1,276,472	2,514,710

Source: Official statistics of the U.S. Department of Commerce.

TABLE 4.4 Cotton fibers, carded or combed, of cotton fiber processed but not spun (HTS subheading 5203.00.05): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
China	0	0	600	0	10,893
Peru	0	0	796	0	1,372
India	1,080	0	0	0	1,363
Taiwan	0	0	0	0	1,080
Germany	553	0	0	0	0
Canada	0	0	1,028	0	0
Argentina	0	0	0	299,990	0
All other	30,952	0	0	0	0
Total	32,585	0	2,424	299,990	14,708

Source: Official statistics of the U.S. Department of Commerce.

TABLE 4.5 Cotton fibers, carded or combed, of cotton fiber processed but not spun (HTS subheading 5203.00.10): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Brazil	0	0	0	0	0
Peru	0	0	0	0	0
Venezuela	0	0	0	0	0
Turkey	0	2,003	0	0	0
Switzerland	0	3,540	2,624	0	0
Italy	0	0	0	0	0
Canada	2,750	0	0	0	0
Total	2,750	5,543	2,624	0	0

Source: Official statistics of the U.S. Department of Commerce.

TABLE 4.6 Cotton fibers, carded or combed, of cotton fiber processed but not spun (HTS subheading 5203.00.30): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Switzerland	0	0	496,404	657,893	654,646
Canada	0	0	1,130	101,846	192,638
Germany	0	0	69,661	52,008	0
Australia	0	0	0	1,373	0
Belgium	0	4,432	0	0	0
All other	0	0	0	0	0
Total	0	4,432	567,195	813,120	847,284

Source: Official statistics of the U.S. Department of Commerce.

TABLE 4.7 Cotton fibers, carded or combed, excluding fibers of cotton processed but not spun (HTS subheading 5203.00.50): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Mexico	280,545	249,127	284,706	347,420	450,552
Switzerland	26,112	0	0	768	96,386
Peru	317	0	0	32,932	70,097
Canada	335,506	232,033	166,735	11,942	18,465
Indonesia	37,387	14,830	107,155	199,519	17,001
China	26,730	0	19,147	99,631	15,920
Italy	6,986	2,650	2,246	5,530	10,810
Japan	10,538	2,314	3,513	59,091	3,185
United Kingdom	2,651	630	970	0	2,753
Australia	0	0	0	0	1,175
All other	425,581	44,381	21,213	305,921	2,523
Total	1,152,353	545,965	605,685	1,062,754	688,867
Imports from LDBDC GSP-eligible countries:					
Haiti	0	0	0	1,400	0
Total	0	0	0	1,400	0

Source: Official statistics of the U.S. Department of Commerce.

TABLE 4.8 Cotton waste, garnetted stock other than yarn waste: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Mexico	99,164	644,828	185,945	321,435	216,642
China	0	0	0	38,301	80,000
Japan	0	0	0	5,592	20,086
Honduras	0	0	0	0	16,949
Jamaica	0	0	10,297	9,978	12,692
Chile	0	0	0	0	0
United Kingdom	0	0	0	0	0
Guyana	0	0	0	0	0
Liberia	0	0	0	0	0
Malaysia	0	0	0	0	0
All other	188,495	99,971	13,264	18,019	0
Total	287,659	744,799	209,506	393,325	346,369

Source: Official statistics of the U.S. Department of Commerce.

Note: This subheading includes U.S. exports of products that correspond to imports under HTS subheading 5202.91.00.

TABLE 4.9 Cotton waste, NSPF: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Mexico	856,091	886,393	1,423,417	5,715,882	6,610,568
Canada	826,485	1,203,759	814,325	1,811,071	2,960,115
Italy	453,874	827,828	111,870	1,032,624	2,609,547
Hong Kong	210,096	73,042	82,503	507,730	2,097,837
China	12,983,887	254,223	1,432,533	479,146	1,109,491
Brazil	136,997	224,403	0	711,980	1,046,070
Indonesia	0	0	332,754	504,144	414,228
Chile	0	0	19,956	57,470	359,790
Turkey	409,919	28,643	10,646	297,739	276,500
Germany	123,240	2,861	27,796	51,368	188,751
All other	2,508,899	1,991,834	1,279,460	4,821,035	1,291,128
Total	18,509,488	5,492,986	5,535,260	15,990,189	18,964,025

Source: Official statistics of the U.S. Department of Commerce.

Note: This subheading includes U.S. exports of products that correspond to imports under HTS subheading 5202.99.30.

TABLE 4.10 Cotton, carded or combed: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
	In actual $				
Guatemala	49,363,870	51,885,501	47,322,081	33,016,333	26,180,599
Honduras	31,802,774	30,365,160	14,484,587	8,479,897	4,870,525
Israel	2,129,710	2,577,751	3,428,126	3,359,651	2,153,030
Italy	325,314	1,033,817	511,147	1,342,198	1,831,338
Netherlands	0	0	0	26,640	1,793,162
Canada	2,242,371	2,172,507	2,956,388	1,367,936	1,099,881
Brazil	2,088,623	197,978	2,998	345,901	1,052,274
France	409,602	417,214	731,965	1,189,411	999,955
Hungary	0	36,545	0	0	824,248
Spain	28,214	71,808	28,759	11,786	713,438
All other	25,250,758	9,477,323	6,245,759	6,151,106	4,694,980
Total	113,641,236	98,235,604	75,711,810	55,290,859	46,213,430

Source: Official statistics of the U.S. Department of Commerce.

Note: This subheading includes U.S. exports of products that correspond to imports under HTS subheadings 5203.00.05, 5203.11.10, 5203.00.30, and 5203.00.50.

waste, and roving waste, which totaled nearly $19 million in 2011. Data for total U.S. exports of carded or combed fibers reflect exports of fibers processed but not spun, as well as fibers other than those that have been processed but not spun. Such exports totaled $46 million in 2011, with Guatemala accounting for 57 percent of total exports. In Guatemala, these fibers are likely spun into yarn, which is used in apparel that is shipped back to the United States. Such apparel would meet a "yarn-forward" rule of origin and therefore qualify for duty-free treatment into the United States under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR).

Position of Interested Parties

Petitioner: The USTR self-initiated a review of these HTS subheadings for possible addition to the list of products eligible for duty-free treatment under the provisions of the GSP for LDBDCs.

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP for these HTS subheadings.

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CHAPTER 5
Cooked Beef in Airtight Containers

Competitive Need Limitation Waiver (Argentina)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
1602.50.20[a]	Processed (not corned) beef in airtight containers	1.4	Yes
[a] Argentina exceeded the percent CNL for this HTS subheading in 2011 and is not eligible for a de minimis waiver. HTS subheading 1602.50.20 was added to the GSP in 1992.			

Processed beef other than corned beef, in airtight containers (cooked beef in airtight containers) is used primarily in the production of further-processed products for retail sale, food service, and institutional use. U.S. domestic commercial production of cooked beef, whether in airtight or other containers, is typically further processed into products such as taco filling, beef stew, chili, and other products. The product imported from Argentina is typically lean grass-fed beef. Lean beef is typically used together with higher-fat trimmings in processed products.

Because of the presence of animal diseases, producers in Argentina are not eligible to export fresh/chilled or frozen beef to the United States unless it has been processed in a way that will inactivate bacteria and viruses (which is accomplished by cooking the product).[2] The requirement that beef from Argentina be cooked before importation limits the downstream products that can be produced.[3] However, within limits, cooked beef from Argentina can be used in place of lean beef from other sources, including imported and domestically produced raw lean beef.

Advice

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Profile of U.S. Industry and Market, 2007–11

Cooked beef in airtight containers accounts for a small share of overall meat production in the United States. In 2010 (the latest data available), shipments of all kinds of meat

[1] The petitioner is the Government of Argentina.

[2] USDA, Food Safety and Inspection Service, "Countries/Products Eligible for Export to the United States," March 26, 2012.

[3] For instance, imported cooked beef cannot be used to produce raw ground beef patties.

from animal slaughter plants in the United States[4] were valued at $78.5 billion, shipments by meat processors other than slaughter plants were valued at $38.6 billion, and shipments of canned meats (excluding pet food and baby food) were valued at $1.7 billion.[5] Imports of cooked beef in airtight containers from Argentina are generally not consumer-ready products, but are used as an input by U.S. producers. By contrast, U.S. production of cooked beef in airtight containers includes further-processed, consumer-ready products (table 5.1).

TABLE 5.1 Cooked beef in airtight containers (HTS subheading 1602.50.20): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	([a])	([a])	([a])	([a])	([a])
Employment (*1,000 employees*)	0.7	0.7	0.7	0.7	0.7
Shipments *(1,000 dollars*)[b]	312,900	334,200	337,300	328,500	358,100
Exports (*1,000 dollars*)	77,582	84,529	74,215	91,712	117,595
Imports (*1,000 dollars*)	188,866	170,991	100,843	58,864	54,639
Consumption (*1,000 dollars*)[b]	424,158	420,647	363,928	295,652	295,144
Import-to-consumption ratio (*percent)*	45	41	28	20	19
Capacity utilization (*percent*)	([a])	([a])	([a])	([a])	([a])

Source: Employment and shipments estimated by Commission staff from various industry sources; exports and imports compiled from official statistics of the U.S. Department of Commerce.

[a] Data are not available.
[b] U.S. shipment and consumption data are of commercial shipments of cooked beef in airtight containers—a broader category that includes further-processed products not included in HTS subheading 1602.50.20.

GSP Import Situation, 2011

Almost all U.S. imports of cooked beef in airtight containers are from the GSP-eligible countries of Argentina and Brazil. Because of animal health regulations, beef from these countries must be processed before being imported. These imports, plus domestically produced beef and imports of raw beef for processing, are used to produce commercially prepared cooked beef products (table 5.2).

[4] Census data include slaughter plants that process beef, pork, and lamb. Data for poultry plants are reported elsewhere.
[5] U.S. Census Bureau, *Annual Survey of Manufacturers*, November 15, 2011; value of shipments under NAICS-based product codes 311611, 311612, and 3116127. Canned meats would include other non-subject beef products such as corned beef, as well as meat products from other animals.

TABLE 5.2 Cooked beef in airtight containers (HTS subheading 1602.50.20): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	54,639	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	54,511	100	100	([b])
Argentina	33,841	62	62	([b])

Source: Official statistics of the U.S. Department of Commerce.

[a] Not applicable.
[b] Not available.

U.S. imports of cooked beef in airtight containers from Argentina under HTS subheading 1602.50.20 have increased because importers of cooked beef from all sources are reportedly shifting to airtight containers in preference to other types of containers (HTS subheading 1602.50.60, a non-subject product).[6] Although imports of cooked beef in airtight containers from Argentina increased over the same period, total U.S. imports of all preserved or prepared beef from Argentina declined over 2007–11.[7]

U.S. Imports and Exports

Before 2010, Brazil was the largest supplier of cooked beef in airtight containers to the U.S. market. However, imports of all cooked beef products from Brazil declined in 2010 following the discovery in May 2010 of veterinary drug residues in cooked beef from Brazil in levels that exceeded the maximum tolerance established by the U.S. Food and Drug Administration.[8] Many establishments in Brazil were removed from the list of establishments eligible to export to the United States, and Brazil's agriculture ministry suspended all exports of cooked beef products to the United States between May 2010 and January 2011.[9] Even after exports were resumed, the volume of cooked beef shipments from Brazil in 2011 declined from 2010 levels (table 5.3), as U.S. importers of cooked beef from Brazil struggled to reestablish customer relations.[10] Other sources of cooked beef in airtight containers include Uruguay, New Zealand, and Canada. Most beef imported from New Zealand, like Argentine beef, is lean beef from grass-fed cattle. Much of the beef imported from Canada is from culled dairy cattle and is leaner than most grain-finished beef.

[6] U.S. Customs and Border Protection representative, telephone interview by Commission staff, March 2, 2012. The rate of duty for imports under HTS subheading 1602.50.60 is 1.8 percent.
[7] Data derived from official statistics of the U.S. Department of Commerce.
[8] USDA Food Safety and Inspection Service, "Illinois Firm Recalls Imported Beef Products," May 14, 2010.
[9] USDA, FSIS, "Brazil: Eligible Plants Certified to Export Meat," February 23, 2010; Meatingplace.com, "Brazil Resumes Exports of Cooked Beef to U.S.," January 5, 2011.
[10] The Beefsite, "2011 Brazilian Beef Exports Down 10 Percent," January 23, 2012; industry representative, telephone interview by USITC staff, March 2, 2012.

TABLE 5.3 Cooked beef in airtight containers (HTS subheading 1602.50.20): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Argentina	29,094,024	25,315,742	26,143,232	30,413,852	33,841,391
Brazil	155,056,721	136,126,720	72,672,194	25,850,908	16,545,838
Uruguay	4,315,283	2,339,566	2,013,065	2,531,595	4,123,657
New Zealand	0	6,324,522	0	37,000	120,001
Canada	299,457	760,762	14,959	28,617	8,518
All other	100,195	123,646	0	2,028	0
Total	188,865,680	170,990,958	100,843,450	58,864,000	54,639,405
Imports from GSP-eligible countries:					
Argentina	29,094,024	25,315,742	26,143,232	30,413,852	33,841,391
Brazil	155,056,721	136,126,720	72,672,194	25,850,908	16,545,838
Uruguay	4,315,283	2,339,566	2,013,065	2,531,595	4,123,657
Total	188,466,028	163,782,028	100,828,491	58,796,355	54,510,886

Source: Official statistics of the U.S. Department of Commerce.

Most U.S. exports of cooked beef in airtight containers are to Canada. U.S. producers also export to Hong Kong, Europe, and Central and South America (table 5.4). U.S. exports likely include more further-processed products than do U.S. imports of cooked beef in airtight containers.

TABLE 5.4 Cooked beef in airtight containers: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Canada	71,539,497	77,615,124	68,493,928	75,468,654	95,660,435
Hong Kong	177,202	0	0	1,975,880	4,705,795
Germany	273,767	208,613	41,805	376,858	2,672,010
Argentina	43,605	366,072	0	797,931	2,192,147
Panama	14,455	317,096	914,655	1,755,513	2,009,233
Russia	0	452,403	195,925	645,521	1,897,814
Brazil	447,649	90,000	48,450	4,655,815	953,642
Bahamas	209,271	210,845	306,314	243,132	934,457
China	34,165	0	0	206,361	833,036
Mexico	1,232,439	1,209,166	2,233,027	832,210	682,595
All other	3,609,895	4,059,801	1,980,756	4,753,734	5,053,747
Total	77,581,945	84,529,120	74,214,860	91,711,609	117,594,911

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

Petitioner: In its petition requesting a CNL waiver, the Embassy of the Argentine Republic, on behalf of the Government of Argentina, asserts that preferential treatment under the GSP helps balance Argentina's trade deficit with the United States, and argues that an increasing trade deficit with the United States threatens to jeopardize Argentina's demand for U.S. manufactured products. The petition also asserts that the requested waivers would not harm U.S. producers, but instead benefit U.S. consumers and industrial users of these products.[11]

Support: The American Meat Institute (AMI) said that it supports the waiver of the CNL. AMI asserts that the cooked beef imported from Argentina under HTS subheading 1602.50.20 does not compete with any domestically produced beef products, and that there is a shortage of lean cooked beef of this type in the United States to satisfy the demand of U.S. producers of processed beef products.[12]

[11] In its petition, the Government of Argentina requested CNL waivers for seven products, only one of which is under consideration.

[12] American Meat Institute, submission to the USITC, March 26, 2012.

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CHAPTER 6
Refined Borax

Competitive Need Limitation Waiver (Turkey)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
2840.19.00[a]	Disodium tetraborate, except anhydrous (refined borax)	0.1	Yes
[a] Turkey exceeded the percent CNL for this HTS subheading in 2011 and is not eligible for a de minimis waiver. HTS subheading 2840.19.00 was added to the GSP in or before 1989.			

Refined borax, also known as disodium tetraborate, is a chemical compound built around the chemical element boron. The borax molecule can exist in one of two forms: with H_2O (borax decahydrate or borax pentahydrate) or without H_2O (anhydrous borax).[2] Anhydrous borax has different physical and chemical properties and is not part of this investigation.

In nature, borax exists as one of several minerals that are found in borate ore that have similar properties.[3] Borate ore deposits in Turkey and the United States represent 73–77 percent of the world's known borate resources, although some known deposits are not commercially feasible.[4] As the holders of the largest borate ore deposits, Turkey and the United States are the largest exporters of borate ore products, including refined borax.

The process of producing refined borax from a U.S. mine source involves collecting the borate ore and crushing it, dissolving the ore in weak recycled borax solution, heating it, and then cooling the solution until the borates crystallize.[5] Crystallized borax decahydrate can be further processed into borax pentahydrate, which can also be further processed into anhydrous borax.

[1] The petitioner is the Istanbul Minerals and Metals Exporters' Association (IMMIB).

[2] For the hydrate form, the H_2O molecules are components of the material's crystalline structure; the material is not in a liquid state. "Pentahydrate" and "decahydrate" refer to the 5 and 10 H_2O molecules, respectively, that are captured in the crystalline structure. *Kirk-Othmer Encyclopedia of Chemical Technology*, "Boron Oxides, Boric Acid, and Borates," April 15, 2011, 2–3.

[3] *Kirk-Othmer Encyclopedia of Chemical Technology*, "Boron Oxides, Boric Acid, and Borates," April 15, 2011, 1–2. The other major borate ore minerals are colemanite, datolite, kernite, probertite, szaibelyte, tincal, and ulexite. To be classified as a true mineral, a substance must be a solid and have a crystalline structure. It must also be a naturally occurring, homogeneous substance with a defined chemical composition. An ore is a rock deposit that contains enough mineral to make it economically feasible to extract and purify a desired product material.

[4] *Kirk-Othmer Encyclopedia of Chemical Technology*, "Boron Oxides, Boric Acid, and Borates," April 15, 2011, 7; ***.

[5] ***. Production of refined borax from brine involves extraction of the borates from the water. ***.

The primary end-use products for refined borax in the United States are insulation fiberglass, textile fiberglass, borosilicate glass, and ceramics and glazes.[6] Its use in soaps and detergents, once significant, has declined dramatically since 2000. Among its more general and technical applications, borates can act as a metabolizing agent, inhibiting agent, dispersing agent, bleaching agent, buffering agent, and flameproofing agent.

Advice

* * * * * * *

Profile of U.S. Industry and Market, 2007–11

The U.S. refined borax industry is composed of two companies: U.S. Borax Inc., a subsidiary of Rio Tinto Minerals (headquartered in London), and Searles Valley Minerals (SVM), a subsidiary of Nirma (an Indian company) (table 6.1).[7] California has the largest borate deposits in the United States, and U.S. Borax dominates U.S. borax production with its open-pit mine in Boron, CA. The second-largest U.S. source of borax is SVM's salt-rich brine wells located in Trona, CA.

TABLE 6.1 Refined borax (HTS subheading 2840.19.00): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (number)	2	2	2	2	2
Employment (*1,000 employees*)	([a])	([a])	([a])	([a])	1,650[b]
Shipments *(1,000 dollars*)	([a])	([a])	92,346[c]	([a])	148,503[c]
Exports (*1,000 dollars*)	129,281	175,952	164,208	187,790	221,137
Imports (*1,000 dollars*)	5,552	7,578	9,757	15,908	27,429
Consumption (*1,000 dollars*)	([a])	([a])	102,103[c]	([a])	175,932[c]
Import-to-consumption ratio (*percent)*	([a])	([a])	9.6[c]	([a])	15.6[c]
Capacity utilization (*percent*)	([a])	([a])	([a])	([a])	([a])

Source: Exports and imports compiled from official statistics of the U.S. Department of Commerce; all other figures calculated from data in the written submission to the USITC from U.S. Borax, March 15, 2012. Data do not total because of the different sources.

[a] Not available.
[b] Figure shown represents data from the larger U.S. producer and an estimate for the smaller U.S. producer.
[c] Calculated figure based on reported Turkish share of U.S. market.

Comprehensive data on the U.S. refined borax industry are unavailable, and the data presented in this chapter are compiled from several sources. One industry source examines the broader boron minerals and chemicals sector and the production of downstream products for which refined borax is the boron-related input. Data presented in that source indicate that both U.S. production and consumption of refined borax follow general economic conditions and that both experienced a large decline in 2009 due to the

[6] ***.

[7] Until 2006, boron minerals were mined at the Billie Mine near Death Valley National Park by the American Borate Corporation (ABC). Currently, ABC markets Turkish borates in the U.S. market. ***.

economic downturn.[8] Production and consumption increased in 2010 and 2011. The industry source projects an annual growth rate for U.S. consumption of all borate minerals and chemicals products of *** percent from 2010 to 2015[9] because of increased demand for insulation fiberglass, due to a recovery in the U.S. housing market and efforts to reduce carbon dioxide emissions. The growth rate overseas for consumption of borate minerals and chemicals is reportedly higher than in the United States.[10]

U.S. Borax employs approximately 1,000 workers, including almost 900 at its Boron, CA, mine. U.S. Borax's production of refined borax decreased *** as a result of the economic downturn.[11] Its production levels increased ***.[12] Its production levels in 2010 and 2011 may have been negatively affected because U.S. Borax experienced labor problems during February–May 2010 that resulted in a lockout of its workers. In addition, U.S. Borax declared a force majeure for six months beginning in December 2010 because of flooding in its mine.[13]

GSP Import Situation, 2011

Turkey and Argentina are the largest suppliers of GSP-eligible imports of refined borax to the United States, with Turkey accounting for 86 percent of GSP-eligible imports in 2011 (table 6.2). U.S. imports from Turkey of refined borax under GSP have increased by 531 percent from 2007 to 2011, while total imports under GSP have increased by 442 percent.

TABLE 6.2 Refined borax (HTS subheading 2840.19.00): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	27,429	100	([a])	15.6[b]
Imports from GSP-eligible countries:				
Total	26,442	96	100	15[b]
Turkey	22,871	83	86	13[b]

Source: Compiled from official statistics of the U.S. Department of Commerce.

[a] Not applicable.
[b] Calculated figure based on reported Turkish share of U.S. market.

[8] The decline in production of refined borax is implied by the decrease in production of boron minerals. The decline in consumption of refined borax is implied by the decrease in consumption for the primary end uses for refined borax, such as insulation fiberglass, textile fiberglass, and borosilicate glass. ***. According to IMMIB, ***. Douglas N. Jacobson, on behalf of IMMIB, e-mail message to USITC staff, April 23, 2012.

[9] ***.

[10] U.S. Borax, responses to commissioner questions, April 3, 2012, 3 (response to question from Commissioner Johanson).

[11] Gary Horlick (counsel, U.S. Borax), e-mail message to USITC staff, April 9, 2012. One source states that U.S. Borax produces approximately 907,000 metric tons of refined borates annually, which is reportedly the required amount to satisfy almost 50 percent of global demand. *Kirk-Othmer Encyclopedia of Chemical Technology*, "Boron Oxides, Boric Acid, and Borates," April 15, 2011, 8. See U.S. Borax, "Borax and ILWU Local 30 Reach New Six-Year Labor Agreement" (accessed April 23, 2012).

[12] Gary Horlick (counsel, U.S. Borax), e-mail message to USITC staff, April 9, 2012.

[13] U.S. Borax, written submission to the USITC, March 15, 2012, 4; U.S. Borax, "Borax and ILWU Local 30 Reach New Six-Year Labor Agreement" (accessed April 23, 2012); ***.

The Turkish borate ore industry is the largest in the world, and its sole producer, Eti Mine Works, produces refined borax from borate ore in Turkey.[14] The company stated that it has a production capacity of *** metric tons per year of borax decahydrate and borax pentahydrate. Production during the first 11 months of 2011 was reportedly *** metric tons, with total Turkish annual consumption of refined borax reported to be approximately *** metric tons. Eti Mine Works expected to use 99 percent of its production capacity in 2011. In 2010 (the most recent data available), Eti Mine Works stated that its production cost of refined borax was $*** per metric ton, while its profits from the sale of refined borax were $*** per metric ton. The company employs 540 employees at its borax refineries.[15]

The Turkish industry was the largest exporter of refined borax in the world during 2007–11, accounting for 53–67 percent of global exports. The largest export markets for Turkish refined borax during 2007–11 were China, which accounted for 52 percent of Turkish exports, followed by the EU, which accounted for 30 percent. Other important export markets during 2007–11 were the United States, Indonesia, and Russia.[16]

U.S. Imports and Exports

The value of U.S. imports of refined borax increased by almost 400 percent from 2007 to 2011 (table 6.3). Turkey was the largest foreign supplier of refined borax to the United States during the period, and imports from Turkey accounted for 88 percent of the increase in value from 2007 to 2011.[17]

Argentina was the second-largest foreign supplier, representing 13 percent of all U.S. imports in 2011. Its import share in the U.S. market fell during 2007–10 before rising in 2011. Argentina is the third-largest exporter of refined borax in the world and is eligible for GSP benefits. The United States imported 32 percent of Argentina's total exports of refined borax in 2011.[18]

The United States is the world's second-largest exporter of refined borax, after Turkey, accounting for 30–42 percent of global exports during 2007–11. As with Turkey's largest export markets for refined borax, the largest export markets for U.S. refined borax during 2007–11 were China, which accounted for 26 percent of U.S. exports, and the EU, which accounted for 21 percent (table 6.4).[19]

[14] In 2010, Turkey reportedly provided 41 percent of the world's borate ore supply and had the largest net export level. ***. See IMMIB, written submission to the USITC, April 4, 2012.

[15] Petition submitted by the IMMIB to the USTR, December 23, 2011, 4–5.

[16] GTIS, World Trade Atlas database (accessed April 8, 2012).

[17] According to SVM, U.S. imports from Turkey are sold in the U.S. market through Eti Mine Works' U.S. affiliate exclusively. Searles Valley Minerals, written submission to the USITC, March 29, 2012. According to IMMIB, ***. Douglas N. Jacobson, on behalf of IMMIB, e-mail message to USITC staff, April 23, 2012.

[18] GTIS, World Trade Atlas database (accessed April 6, 2012).

[19] GTIS, World Trade Atlas database (accessed April 8, 2012).

TABLE 6.3 Refined borax (HTS subheading 2840.19.00): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Turkey	3,622,273	5,244,085	8,168,277	13,709,288	22,871,222
Argentina	1,134,944	1,325,298	809,065	1,061,134	3,442,367
Italy	112,724	177,409	210,683	266,604	404,100
China	110,283	205,679	136,992	149,551	252,161
France	355,453	392,025	362,937	446,761	127,442
India	123,355	50,813	0	26,510	79,602
Netherlands	0	122,891	0	2,145	76,258
Canada	0	0	0	22,984	51,074
South Africa	0	0	0	0	48,600
Japan	0	0	17,119	59,187	29,913
All other	93,205	59,909	52,424	164,542	45,766
Total	5,552,237	7,578,109	9,757,497	15,908,706	27,428,505
Imports from GSP-eligible countries:					
Turkey	3,622,273	5,244,085	8,168,277	13,709,288	22,871,222
Argentina	1,134,944	1,325,298	809,065	1,061,134	3,442,367
India	123,355	50,813	0	26,510	79,602
South Africa	0	0	0	0	
Tokelau (New Zealand)	0	0	7,975	0	0
Total	4,880,572	6,620,196	8,985,317	14,796,932	26,441,791

Source: Official statistics of the U.S. Department of Commerce.

TABLE 6.4 Refined borax: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
China	27,896,156	36,873,684	52,569,376	48,258,173	59,079,593
Netherlands	30,004,798	34,647,264	28,630,320	40,124,456	28,232,003
Vietnam	882,163	1,112,107	2,599,272	2,256,986	24,684,065
Malaysia	15,119,105	24,456,792	11,815,041	10,477,887	22,733,142
Mexico	4,127,482	5,983,091	8,195,672	16,152,253	17,929,121
Japan	8,859,684	9,148,265	7,385,168	10,636,250	11,704,344
Canada	12,202,709	13,455,020	13,504,766	13,671,412	10,383,875
India	4,322,538	7,835,882	7,349,776	15,239,127	9,729,784
Korea	6,421,071	6,092,620	4,913,743	5,531,468	6,433,048
Indonesia	592,392	1,406,264	2,581,143	2,608,654	5,062,478
All other	18,853,319	34,941,295	24,539,954	22,822,674	25,165,274
Total	129,281,417	175,952,284	164,084,231	187,779,340	221,136,727

Source: Official statistics of the U.S. Department of Commerce.

Together, Turkey and the United States accounted for 97 percent of global exports of refined borax in 2011. However, the U.S. share has declined steadily since 2008, from 42 percent to 30 percent, while the Turkish share has increased steadily, from 53 percent to 67 percent.[20]

[20] GTIS, World Trade Atlas database (accessed April 8, 2012).

Position of Interested Parties

Petitioner: The petitioner is the Istanbul Mineral and Metals Exporters' Association (IMMIB). According to the petitioner, IMMIB is a Turkish trade association representing producers and exporters of minerals and metal products.[21] In addition to positive impacts on Turkey's industry and employment, IMMIB contends that duty-free treatment for refined borax will benefit U.S. manufacturers and consumers by decreasing the input costs of U.S.-produced merchandise, allowing U.S. manufacturers to remain competitive in the global marketplace for the wide variety of products containing refined borax.[22] Further, because the duty on refined borax is already low, IMMIB does not foresee any adverse impact on U.S. producers from removing it.[23]

The petitioner asserted that although U.S. imports of refined borax from Turkey have increased over the past few years, they still represent a "very small percentage" of the overall U.S. market for refined borax.[24] The total volume of U.S. imports of refined borax from Turkey reportedly amounted to less than $22.9 million in 2011, well below the CNL threshold of $150 million, and only slightly exceeding the de minimis threshold of $21 million.[25] IMMIB explained that the recent uptick in U.S. imports is the result of lower available domestic supply, owing to production problems with the U.S. manufacturer, U.S. Borax.[26]

According to IMMIB, duty-free access to the U.S. market will reportedly allow Eti Mine Works, the sole Turkish producer of refined borax, to increase production in its current plants and make investments in new plants that were previously delayed by economic uncertainty.[27]

Counsel for IMMIB stated that because shipping costs are a significant factor in retail prices, the U.S. industry has a competitive advantage over global competitors in the U.S. market. As a result, U.S. producers are unlikely to be harmed by the removal of duties on Turkish imports.[28] Further, IMMIB asserted that although Eti Mine Works is a state-owned enterprise, it is still subject to the same market forces as private companies and is ISO 9000 certified.[29]

Opposition: U.S. Borax, Inc. said that it is the largest domestic producer of refined borax. U.S. Borax opposes the petition on the grounds that Eti Mine Works, the Turkish manufacturer, is a large, globally competitive enterprise whose exports to the United States have exhibited "extraordinary growth" in recent years, threatening U.S. sales and

[21] Law offices of Douglas Jacobson, PLLC, on behalf of the Istanbul Mineral and Metals Exporters' Association (IMMIB), "Petition to Grant Waiver of Competitive Need Limit," written submission to the USTR, December 23, 2011.

[22] Petition submitted by the IMMIB to the USTR, December 23, 2011, 5–6.

[23] Douglas N. Jacobson, on behalf of IMMIB, written submission to the USITC, March 6, 2012, 2.

[24] The petitioners estimated that imports of refined borax from Turkey account for only 13 percent of the U.S. market. Douglas N. Jacobson, on behalf of IMMIB, written submission to the USITC, March 6, 2012, 3–4.

[25] Douglas N. Jacobson, on behalf of IMMIB, written submission to the USITC, March 6, 2012, 2–3.

[26] Douglas N. Jacobson, on behalf of IMMIB, written submission to the USITC, April 4, 2012, 3.

[27] Petition submitted by the IMMIB to the USTR, December 23, 2011, 4.

[28] Douglas N. Jacobson, on behalf of IMMIB, written submission to the USITC, April 4, 2012, 2.

[29] Douglas N. Jacobson, on behalf of IMMIB, written submission to the USITC, April 4, 2012, 4.

employment.[30] According to U.S. Borax, U.S. imports from Turkey nearly tripled in volume between 2009 and 2011 while U.S. demand for refined borax remained flat, hurting the competitive position of the U.S. industry.[31] In particular, counsel for U.S. Borax stated that the increase in U.S. imports from Turkey in 2010 coincided with an expansion in Eti Mine Works' capacity that year.[32]

U.S. Borax explained that Turkey is the world's largest producer of all boron products and has the world's largest reserves of boron, which it asserts allows Eti Mine Works to influence the market price of refined borax. In addition, according to U.S. Borax, the Turkish producer already benefits from duty-free access to the European market while U.S. borate products face an EU duty rate of 3.7 percent or 5.3 percent.[33] U.S. Borax characterized the product as "extremely price sensitive" and claimed that the relatively low average unit value of U.S. imports from Turkey compared with other suppliers is a key factor in Eti Mine Works' recent expansion in the U.S. market.[34]

SVM said that it is the second-largest domestic producer of refined borax. SVM said that it opposes the petition on the grounds that Eti Mine Works is a state-owned enterprise that does not experience the same "competitive pressures" as U.S. refined borax producers. According to SVM, U.S. imports from Turkey, which are sold in the U.S. market through Eti Mine Works' U.S. affiliate exclusively, have "steadily surged" on an annual basis. SVM asserts that a continuation of the duty waiver on this price-sensitive product would "exacerbate the displacement of U.S. {refined borax} production."[35]

Local 30, Mine, Mineral and Processing Workers of the International Longshore Warehouse Union stated that it represents 601 workers at the U.S. Borax mine in Boron, CA. The union said that it opposes the petition and cites Eti Mine Works as an example of state-owned mines that have "liberalized market access outside their borders while denying basic rights and protections at their home mines." Local 30 cited an Amnesty International report that categorizes Turkey's shortcomings on labor rights standards and urged that the Commission's economic analysis be informed by these shortcomings as well as by the economic hardships that the California mining communities would face if the duty continued to be waived.[36]

[30] Gary N. Horlick, on behalf of U.S. Borax, Inc., written submission to the USITC, March 15, 2012, 3.
[31] Gary N. Horlick, on behalf of U.S. Borax, Inc., written submission to the USITC, March 15, 2012, 3.
[32] Gary N. Horlick, on behalf of U.S. Borax, Inc., written submission to the USITC, March 15, 2012, 5.
[33] Gary N. Horlick, on behalf of U.S. Borax, Inc., written submission to the USITC, March 15, 2012, 5, 7.
[34] Gary N. Horlick, on behalf of U.S. Borax, Inc., written submission to the USITC, March 15, 2012, 3–4.
[35] Searles Valley Minerals, written submission to the USITC, March 29, 2012.
[36] Local 30, written submission to the USITC, April 4, 2012.

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CHAPTER 7
Other Acyclic Monoamines

Competitive Need Limitation Waiver (Philippines)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
2921.19.60[a]	Other acyclic monoamines and their derivatives	6.5	Yes
[a] The Philippines exceeded the percent CNL for this HTS subheading in 2011 and is not eligible for a de minimis waiver. In 1995, HTS subheading 2921.19.60 was broken out from HTS subheading 2921.19.50, which was added to the GSP in or before 1989.			

This HTS subheading covers a large range of products with many end uses. Acyclic monoamines consist of a single nitrogen atom bonded to one, two, or three chains of carbon atoms. The chains of carbon atoms do not include any ring structures. Uses for these chemicals vary widely but include applications such as pharmaceuticals, biocides, corrosion inhibiters, surfactants, and intermediates in the production of other chemicals.

According to the petitioner, the imports from the Philippines under GSP consist of tertiary amines used as surfactants for germicides, bactericides, and wood preservatives. In the Philippines, these products are made using coconut oil as the primary raw material. In the United States, these products can be made from soybean oil, tallow, imported coconut oil, or petroleum.

Advice

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Profile of U.S. Industry and Market, 2007–11

Because this HTS subheading covers such a broad range of mostly unidentified chemicals from different segments of the chemical industry, it is not possible to obtain accurate estimates of U.S. employment and capacity utilization for the products (table 7.1). At least four companies in the United States make tertiary amines (a type of other acyclic monoamine) similar to those imported from the Philippines under the GSP program. Proctor and Gamble (P&G) Chemicals has a production capacity of

[1] The petitioner is the Republic of the Philippines.

(U) **TABLE 7.1** Other acyclic monoamines (HTS subheading 2921.19.60): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	13	13	13	13	13
Employment (*1,000 employees*)	([b])	([b])	([b])	([b])	([b])
Shipments *(1,000 dollars)*[a]	***	***	***	***	***
Exports (*1,000 dollars*)	57,445	82,675	47,464	67,751	62,846
Imports (*1,000 dollars*)	70,015	93,280	78,341	94,314	125,591
Consumption (*1,000 dollars*)	***	***	***	***	***
Import-to-consumption ratio (*percent)*	***	***	***	***	***
Capacity utilization (*percent*)	([b])	([b])	([b])	([b])	([b])

Source: Number of producers and shipments estimated by Commission staff from various industry sources; exports and imports compiled from official statistics of the U.S. Department of Commerce.

[a] Staff estimates these values based on products that could be identified as being in this HTS category. These values likely underestimate the true values, since many products in this category could not be identified.
[b] Not available.

approximately 60,000 metric tons per year at its plant in Kansas City, KS.[2] P&G Chemicals announced that it has switched feedstocks used to make tertiary amines from petroleum-based olefins to alcohols derived from plant oils.[3] Albemarle manufactures tertiary amines from petroleum-based feedstocks in Magnolia, AR.[4] Akzo Nobel, Inc., makes tertiary amines from coconut oil at its plant in Morris, IL. Lonza, Inc., makes tertiary amines for use in biocides and wood preservatives at its plant in Mapleton, IL.

GSP Import Situation, 2011

The Philippines accounted for over 99 percent of imports from GSP-eligible countries for this HTS subheading in 2011 (table 7.2). U.S. imports from the Philippines were 51 percent of total imports for this HTS subheading in 2011, exceeding the CNL. According to the petitioner, U.S. imports of other acyclic monoamines from the Philippines are produced by one company, Pilipinas Kao Inc. (PKI). PKI is a subsidiary of the Kao Corporation of Japan.[5] PKI has 149 employees producing fatty alcohols and fatty amines (a type of other acyclic monoamines) from coconut oil produced on farms throughout the Philippines.[6] The United States is the primary export market for fatty amines produced in the Philippines, accounting for 60 percent of PKI's sales of fatty amines.

[2] De Guzman, "P&G Chemicals to Use Natural-based Feedstock for US Amines," *ICIS Chemical Business*, January 29, 2010.
[3] De Guzman, "P&G Chemicals to Use Natural-based Feedstock for US Amines," *ICIS Chemical Business*, January 29, 2010.
[4] Albemarle Website, "Tertiary Amines," http://albemarle.com/Products-and-Markets/Fine-Chemistry/Performance-Chemicals/Industrial-Specialties/Tertiary-Amines-171.html (accessed March 26, 2012).
[5] Pilipinas Kao Website, http://www.kao-phil.com/index.php.
[6] Petition submitted to the USTR.

TABLE 7.2 Other acyclic monoamines (HTS subheading 2921.19.60): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	125,591	100.0	([a])	***
Imports from GSP-eligible countries:				
Total	64,412	51.3	100.0	***
Philippines	64,245	51.2	99.7	***

Source: Compiled from official statistics of the U.S. Department of Commerce.

[a] Not applicable.

U.S. Imports and Exports

The Philippines is the largest source of U.S. imports of other acyclic monoamines, followed by China, Germany, and Japan (table 7.3). In 2011, 21 percent of U.S. imports for HTS subheading 2921.19.60 entered free of duty under the pharmaceutical zero-for-zero agreement.[7] Imports of pharmaceuticals under this HTS subheading primarily come from China.

The largest markets for U.S. exports of other acyclic monoamines are the EU, Mexico, Brazil, and China (table 7.4). Since this is a basket category covering a large variety of products, it is possible that the mix of products that U.S. producers export is different from the products that are imported under subheading HTS 2921.19.60.

[7] For more information on the pharmaceutical zero-for-zero agreement, see USITC, *Pharmaceutical Products and Chemical Intermediates, Fourth Review: Advice Concerning the Addition of Certain Products to the Pharmaceutical Appendix to the HTS*, Investigation No. 332-520, Publication 4181, September 2010.

(U) **TABLE 7.3** Other acyclic monoamines (HTS subheading 2921.19.60): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Philippines	16,637,782	24,668,383	21,568,753	36,343,369	64,244,974
China	22,407,425	30,942,711	34,187,500	31,564,669	33,764,308
Germany	10,577,449	17,979,085	6,597,411	10,690,800	12,960,171
Japan	3,597,666	8,521,109	10,879,080	7,863,499	6,439,983
Belgium	7,664,610	6,721,968	3,044,125	3,565,209	3,792,786
France	1,744,620	563,565	369,995	1,239,881	1,661,352
Mexico	525,166	429,768	515,186	860,904	1,286,768
Switzerland	120,558	160,208	150,690	303,258	355,094
United Kingdom	864,470	867,859	591,769	368,027	307,221
Spain	190,388	269,606	10,000	126,894	225,306
All other	5,684,936	2,155,277	426,228	1,387,135	553,364
Total	70,015,070	93,279,539	78,340,737	94,313,645	125,591,327
Imports from GSP-eligible countries:					
Philippines	16,637,782	24,668,383	21,568,753	36,343,369	64,244,974
India	134,282	169,481	126,154	131,568	164,816
Brazil	4,514,401	0	2,500	6,480	2,700
Indonesia	21,881	0	0		0
Russia	5,026	7,071	3,180	3,137	0
Total	21,313,372	24,844,935	21,700,587	36,484,554	64,412,490

Source: Official statistics of the U.S. Department of Commerce.

(U) **TABLE 7.4** Other acyclic monoamines: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Mexico	6,160,848	6,419,062	3,678,807	6,064,384	8,922,907
Brazil	4,126,989	7,577,642	4,309,882	6,616,759	7,957,484
Italy	6,072,766	7,149,208	7,969,080	9,367,267	7,938,003
China	5,692,147	15,250,217	3,497,337	7,542,316	7,302,537
Canada	5,314,893	5,760,638	3,428,746	3,879,511	6,391,649
Argentina	8,063,106	7,963,772	5,769,826	5,693,008	3,736,345
United Kingdom	363,780	2,071,029	1,180,999	2,468,197	3,609,846
Taiwan	1,747,786	2,183,822	425,167	1,502,866	1,976,747
Japan	3,134,846	11,414,666	3,561,489	1,756,531	1,540,223
Belgium	428,498	517,467	457,114	2,773,789	1,423,280
All other	16,339,723	16,367,843	13,185,955	20,086,792	12,046,928
Total	57,445,382	82,675,366	47,464,402	67,751,420	62,845,949

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

Petitioner: In its petition requesting a CNL waiver, the petitioner, the Philippine Government, states that the loss of GSP benefits for HTS subheading 2921.19.60 would immensely diminish Philippine exporters' competitiveness and foothold in the U.S. market. According to the petitioner, Philippine exporters have seen their shipments decline in recent years due to the global economic downturn. The loss of GSP benefits for this HTS subheading will make it difficult for Philippine exporters to adjust to this slowdown in trade flows and hurt their long-term business viability. According to the petitioner, U.S. imports from the Philippines under this HTS subheading are fatty amines (a type of other acyclic monoamines) produced using coconut oil as the main raw material. In the Philippines, coconut farms account for about 26 percent of total agricultural land and support the livelihood of coconut farmers throughout the country. According to the petitioner, a reduction in U.S. market share for other acyclic monoamines from the Philippines would certainly affect families who rely mainly on coconut farming for income.

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for this HTS subheading.

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CHAPTER 8
Lysine

Competitive Need Limitation Waiver (Brazil)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
2922.41.00[a]	Lysine and its esters; salts thereof	3.7	Yes
[a] Brazil exceeded the percent CNL for this HTS subheading in 2011 and is not eligible for a de minimis waiver. HTS subheading 2922.41.00 was added to the GSP in or before 1989.			

Lysine is an amino acid that is primarily used as an additive in livestock feeds. Amino acids are important in human and animal health because they are the building blocks for proteins. Lysine is an essential amino acid, which means that humans and many other mammals cannot synthesize this amino acid in their bodies and must instead get it from the foods that they eat. Lysine is most often used as a dietary supplement for poultry and swine to speed the development of lean muscle in these animals. The diet of poultry and swine is primarily corn. Because corn has low levels of the amino acid lysine, it does not allow optimal growth of livestock unless it is supplemented with lysine. Lysine is also used as a nutritional supplement and injectable pharmaceutical for humans, but these uses typically account for less than 5 percent of U.S. consumption.

Advice

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Profile of U.S. Industry and Market, 2007–11

The U.S. industry consists of three large producers of feed-grade lysine and two small producers of lysine for laboratory and pharmaceutical use (table 8.1). Archer Daniels Midland Company (ADM) produces lysine at its Decatur, IL, plant and has an annual capacity of 180,000 metric tons.[2] Ajinomoto Heartland LLC operates a lysine plant in Eddyville, IA, that has an annual capacity of 60,000 metric tons.[3] Midwest Lysine LLC

[1] The petitioner is the National Association of Brazilian Feed Industries (Sindirações).

[2] Estimated by Commission staff based on various industry sources and Pillsbury Winthrop Shaw Pittman LLP, on behalf of Evonik Degussa Corporation, written submission (public version) to the USITC, March 6, 2009, 5.

[3] Estimated by Commission staff based on various industry sources and Pillsbury Winthrop Shaw Pittman LLP, on behalf of Evonik Degussa Corporation, written submission (public version) to the USITC, March 6, 2009, 5.

TABLE 8.1 Lysine (HTS subheading 2922.41.00): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	5	5	5	5	5
Employment (*1,000 employees*)	<1	<1	<1	<1	<1
Shipments *(1,000 dollars*)	***	***	***	***	***
Exports (*1,000 dollars*)	278,909	313,602	276,045	365,222	451,337
Imports (*1,000 dollars*)	57,024	88,872	66,982	111,055	141,755
Consumption (*1,000 dollars*)	***	***	***	***	***
Import-to-consumption ratio (*percent)*	***	***	***	***	***
Capacity utilization (*percent*)	***	***	***	***	***

Source: Number of producers, employment, shipments, and capacity utilization estimated by Commission staff from various industry sources; exports and imports compiled from official statistics of the U.S. Department of Commerce.

operates a plant in Blair, NE, with an annual capacity of approximately 60,000 metric tons.[4] Ajinomoto AminoScience LLC and Sigma-Aldrich Corporation make small batches of lysine, primarily for use in research laboratories and for pharmaceutical use in humans.

The demand for lysine in the United States depends primarily on the output of swine and poultry producers as well as on the price of soybean meal, which is a substitute for corn/lysine mixes as livestock feed. The value of shipments by domestic producers, as well as imports, rose in 2010 and 2011 after falling in 2009. This trend in the shipments and imports of lysine follows the trend in the production of (and demand for) chickens (broilers) and swine in those years.[5] The market for lysine is expected to grow at a moderate pace over the next 5 to 10 years, as the USDA projects growth in poultry and swine production of between 1 and 3 percent each year.[6]

GSP Import Situation, 2011

Brazil and Indonesia are the largest suppliers of GSP-eligible imports of lysine to the United States. Brazil accounted for 58 percent of total U.S imports of lysine, surpassing the competitive need limitation, and 80 percent of GSP-eligible imports in 2011 (table 8.2). Indonesia supplied 15 percent of total U.S. imports and 20 percent of GSP-eligible imports of lysine in 2011.

[4] Estimated by Commission staff based on various industry sources and Alperowlcz, "Degussa Forms Lysine JV in China," February 2, 2005, 16. Capacity of the Blair, NE, plant was reported as 90,000 metric tons for Degussa's Biolys product, which is a sulfate salt of lysine. Commission staff estimates that this production capacity is approximately equivalent to a 60,000 metric ton capacity for lysine monohydrochloride, which is the basis of the annual capacities reported for the other domestic producers. Midwest Lysine LLC began production in 2000 as a joint venture between Cargill, Inc., and Degussa Corporation. Degussa assumed full ownership of the plant in 2003.

[5] USDA, NASS, "Broilers: Production and Value of Production by Year, US," April 2011; USDA, NASS, "Hogs: Pig Crop by Quarter and Year, US," December 23, 2011.

[6] USDA, "USDA Agricultural Projections to 2021," February 2012.

TABLE 8.2 Lysine (HTS subheading 2922.41.00): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	141,755	100.0	([a])	***
Imports from GSP-eligible countries:				
Total	103,559	73	100	***
Brazil	82,287	58	80	***

Source: Compiled from official statistics of the U.S. Department of Commerce.

[a] Not applicable.

There are two lysine producers in Brazil: Ajinomoto do Brasil Indústria e Comércio de Alimentos Ltda., a subsidiary of the Japanese firm Ajinomoto Company, and CJ do Brasil Indústria e Comércio de Produtos Alimentícios Ltda., a subsidiary of CJ Corporation of Korea. The combined capacity of the two producers reportedly was *** metric tons, and their average capacity utilization was *** percent in 2010.[7] Brazilian lysine producers reportedly exported *** percent of their production in 2010.[8] The largest export market for Brazil is the United States, which received 28 percent of Brazilian exports of lysine in 2011, followed closely by the EU (26 percent).[9]

U.S. Imports and Exports

Brazil is the largest source of U.S. imports of lysine, accounting for 58 percent in 2011 (table 8.3). China and Indonesia are the second- and third-largest sources, respectively. China supplied 24 percent of U.S. imports in 2011 and is not eligible for GSP benefits. Indonesia, which is GSP-eligible, is the second-largest exporter of lysine in the world.[10]

The United States is the world's largest exporter of lysine. In 2011, U.S. lysine producers exported approximately *** percent of their total production. The largest markets for U.S. exports of lysine are the EU, Canada, Australia, and Brazil (table 8.4). The global lysine market is dominated by a few large multinational companies with production facilities in most major markets.[11] In many cases, U.S. imports and exports might be transfers between related parties.

[7] Sindirações, written submission to the United States Trade Representative (USTR), December 28, 2011, 15.

[8] Sindirações, written submission to the United States Trade Representative (USTR), December 28, 2011, 17.

[9] GTIS, World Trade Atlas (accessed March 13, 2012).

[10] GTIS, World Trade Atlas (accessed March 13, 2012).

[11] Industry representative, telephone interview by USITC staff, April 4, 2012.

TABLE 8.3 Lysine (HTS subheading 2922.41.00): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Brazil	23,555,915	43,048,357	29,998,619	44,850,904	82,287,117
China	13,693,351	23,728,472	18,238,493	32,054,301	33,675,338
Indonesia	8,023,918	12,361,745	9,493,764	21,682,269	21,173,071
Japan	2,610,418	3,395,881	1,921,710	3,006,762	2,879,777
Korea	1,811,871	3,723,403	4,032,484	815,760	840,511
Netherlands	0	25,050	3,600	0	375,850
France	247,473	665,054	202,481	390,798	321,427
India	185,082	302,920	118,921	255,724	98,470
Taiwan	0	0	1,185,694	17,550	60,930
Switzerland	252,784	25,446	46,893	25,432	35,597
All other	6,643,678	1,596,463	1,740,043	7,956,034	7,262
Total	57,024,490	88,872,791	66,982,702	111,055,534	141,755,350
Imports from GSP-eligible countries:					
Brazil	23,555,915	43,048,357	29,998,619	44,850,904	82,287,117
Indonesia	8,023,918	12,361,745	9,493,764	21,682,269	21,173,071
India	185,082	302,920	118,921	255,724	98,470
Thailand	0	0	0	7,334,942	0
Argentina	0	0	256,496	0	0
Total	31,764,915	55,713,022	39,867,800	74,123,839	103,558,658

Source: Official statistics of the U.S. Department of Commerce.

TABLE 8.4 Lysine: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Netherlands	83,793,505	126,280,638	114,717,761	152,110,704	211,856,118
Canada	37,236,308	35,624,898	28,455,586	39,648,410	50,311,401
Spain	18,959,651	24,509,896	23,507,811	32,366,984	35,408,848
Australia	5,007,429	7,373,320	6,765,534	8,337,687	12,433,836
Brazil	23,710,779	16,667,222	15,715,311	22,276,589	12,014,955
Colombia	1,200,676	4,574,728	5,106,187	8,645,825	9,862,161
Belgium	6,411,342	58,680	168,800	14,278,972	9,450,672
Chile	4,646,359	5,420,458	2,125,605	5,147,758	9,120,330
China	15,120,096	13,930,231	15,386,694	4,950,948	8,400,785
Mexico	15,159,144	21,445,780	16,646,253	11,673,940	7,820,387
All other	67,663,307	57,716,219	47,449,343	65,783,744	84,657,152
Total	278,908,596	313,602,070	276,044,885	365,221,561	451,336,645

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

(U) **Petitioner:** In its petition requesting a CNL waiver, the petitioner, National Association of Brazilian Feed Industries (Sindirações), said that its membership includes Brazil's two domestic lysine producers. According to the petitioner, the loss of GSP benefits for Brazil would likely cause a decline in lysine exports to the United States,

which is Brazil's most important export market for lysine, and a reduction in employment in the Brazilian chemical industry; the loss of employment would bring negative social and economic consequences to the country as a whole. The petitioner asserted that Brazil's chemical industry faces many internal problems, such as poor infrastructure and high production costs; that GSP benefits are necessary to minimize those disadvantages and allow Brazilian producers to compete in the U.S. market with exports from China and other countries; and that granting the waiver will pose no threat to U.S. producers of lysine because this waiver would not bring any new advantage to the Brazilian exporters compared to the U.S. producers. The petitioner states that withdrawing the GSP benefit for Brazil would not help producers in other poor and developing countries, but would likely result in a shift in import sourcing from Brazil to China or developed nations, such as Japan and Korea.

(U) No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for this HTS subheading.

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CHAPTER 9
Agarbatti and Other Burned Incense

Competitive Need Limitation Waiver (India)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
3307.41.00[a]	Incense sticks (agarbatti) and similar items that produce a fragrant odor by burning	2.4	Yes
[a] India exceeded the percent CNL for this HTS subheading in 2011 and is not eligible for a de minimis waiver. HTS subheading 3307.41.00 was added to the GSP in or before 1989.			

The products imported under this subheading are two forms of fragrance-producing objects that release their scent by a burning process. The first form is incensed material affixed to sticks, fashioned into cones or other shapes such as briquettes, or left in powder form. Imports in this form account for a significant majority of total imports under this subheading and likely all imports from India (agarbatti, or agarbathi, is the Indian term for incense in stick form).[2] The second form is known as a fragrance lamp, comprising a decorative ceramic or glass container filled with a fragranced liquid fuel with an inserted wick and burner and a vented shade top. Imports in this form reportedly account for *** of imports of such products from *** and an indeterminate amount of imports from other countries.[3]

Both products are used to release fragrance into the air, but the fragrance lamp produces ozone as well, deodorizing the air by simple ozone/pollutant and ozone/bacteria reactions.[4] Incense in stick, shape, or powder form is consumed entirely by direct application of flame, releasing the fragrance. In using a fragrance lamp, the wick is lit but extinguished minutes later, starting the process of breaking down the fragranced liquid fuel and dispersing the scent through the vented shade top.[5] The container and top may be reused. Either form can be used to release fragrance during religious ceremonies, with which burned incense is most closely related,[6] but fragrance lamps likely are used much less regularly for this purpose.

[1] The petitioner is the Government of India.

[2] Rakesh Kumar, Export Promotion Council for Handcrafts (EPCH), written submission to the USITC, March 12, 2012, 1.

[3] ***, telephone interview with USITC staff, March 6, 2012.

[4] Alexandria Lamps 2011 catalog, 55, http://www.alexandrialamps.com/Alexandrias2011catalog.pdf.

[5] One source indicates the fragranced fuel is 90 percent alcohol. P.C. Fallon Co., http://www.pcfallon.com/c-835-alexandrias.aspx.

[6] Rakesh Kumar, EPCH, written submission to the USITC, March 12, 2012, 1; USITC, hearing transcript, March 30, 2012, 71 (testimony of Arjun Ranga, All India Agarbatti Manufacturers Association (AIAMA)).

Advice

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Profile of U.S. Industry and Market, 2007–11

The U.S. industry consists of an unknown number of producers of agarbatti and incense in shape or powder form and *** producers of fragrance lamps (table 9.1). Eight U.S. companies were identified that import fragranced agarbatti and incense shapes and powder and import unfragranced agarbatti for further processing in the United States.[7] The largest U.S. company that *** was also identified.[8] The size of these producers and importers, as reported by the companies in terms of employees, varies significantly. Some companies reported as few as *** devoted to the production (fragrancing and/or packaging[9] and shipping) of agarbatti and incense in shape or powder form or as many as *** employees.[10] ***.[11]

TABLE 9.1 Agarbatti and other burned incense (HTS subheading 3307.41.00): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	([a])	([a])	([a])	([a])	([a])
Employment (*1,000 employees*)	([a])	([a])	([a])	([a])	([a])
Shipments *(1,000 dollars*)	([a])	([a])	([a])	([a])	([a])
Exports (*1,000 dollars*)	4,993	7,443	5,671	4,274	4,054
Imports (*1,000 dollars*)	24,357	26,806	18,806	21,926	20,949
Consumption (*1,000 dollars*)	([a])	([a])	([a])	([a])	([a])
Import-to-consumption ratio (*percent)*	([a])	([a])	([a])	([a])	([a])
Capacity utilization (*percent*)	([a])	([a])	([a])	([a])	([a])

Source: U.S. import and export data are derived from official statistics of the U.S. Department of Commerce.

[a] Data are not available.

The production capacity and production of U.S. agarbatti producers is unknown.[12] Several of the U.S. producers contacted are small businesses that adjust production to

[7] There is no information regarding any imports of unfragranced incense in shape or powder form and therefore no information regarding any U.S. production of a form of incense other than in stick form.

[8] *** would be classified under subheadings other than 3307.41.00. ***, telephone interview with USITC staff, March 7, 2012.

[9] Occasionally, the packaging is customized for a particular customer.

[10] ***, telephone interview with USITC staff, March 5, 2012; ***, telephone interview with USITC staff, March 5, 2012; ***, telephone interview with USITC staff, March 6, 2012. At least one production system in the United States was quite similar to the home-based production method used in India. ***, telephone interview with USITC staff, March 5, 2012.

[11] ***, telephone interview with USITC staff, March 7, 2012.

[12] In his testimony, the AIAMA representative stated there was no U.S. production of agarbatti. USITC, hearing transcript, March 30, 2012, 50 (testimony of Arjun Ranga, AIAMA). It is likely that statement related to U.S. production of unfragranced agarbatti.

meet specific orders and retain employees with flexible and part-time working arrangements as required.[13]

Agarbatti has reportedly been produced in the United States since the 1970s.[14] U.S. producers indicated that fragrance attachment processes performed at U.S. facilities largely center on products with scents unique to the U.S. market that are unavailable from foreign sources (e.g., honeysuckle or orange blossom) or that require high-quality U.S. fragrance material.[15] These U.S.-fragranced (and therefore higher-priced) agarbattis are the products most likely to be exported, although some U.S. re-exports of imported Indian agarbatti occur, particularly to Canada.[16] Similarly, U.S. producers said that, in general, the majority of U.S. sales of Indian imports of agarbatti and incense shapes and powder are already fragranced and usually prepackaged, but that the majority of U.S. sales of domestically produced agarbatti begin with Chinese-origin unfragranced agarbatti that is "dipped" in the United States using U.S. fragrance material.[17] The demand for agarbatti and incense shapes and powder likely is influenced by general economic conditions, as it is a low-cost item (for example, a package of 20 sticks for $2.00) used largely to enhance pleasurable scents but that also has a religious or spiritual use that may provide some regular demand. Fragrance lamps are likely used less frequently for religious and spiritual purposes and have a significantly higher price ($35–$100 per lamp).[18]

GSP Import Situation, 2011

India and Thailand are the largest suppliers of GSP-eligible imports of agarbatti and other burned incense into the United States, with India accounting for 88 percent of GSP-eligible imports in 2011 (table 9.2). GSP imports from India have increased by 24 percent from 2007 to 2011, while total imports under GSP have increased by 9 percent.

[13] ***, telephone interview with USITC staff, March 5, 2012; ***, telephone interview with USITC staff, March 5, 2012; ***, telephone interview with USITC staff, March 5, 2012; ***, telephone interview with USITC staff, March 12, 2012. There is apparently no U.S. trade association that represents the interests of the U.S. incense industry or that would have knowledge of the composition of the U.S. industry. Staff contacted representatives of U.S. fragrance industry associations to this end as well.

[14] Wild Berry, http://www.wild-berry.com/mm5/index.html; The Dipper Inc., http://www.thedipper.com/about.html.

[15] ***, telephone interview with USITC staff, March 6, 2012. A 1996 study of the Indian agarbatti industry stated that the fragrance component accounted for three times the share of the total value as did all the other raw materials used in agarbatti production. Hanumappa, "Agarbathi: A Bamboo-Based Industry in India," 1996.

[16] ***, telephone interview with USITC staff, March 5, 2012.

[17] Reportedly, the Chinese-origin unfragranced agarbatti is generally lower-priced than comparable unfragranced Indian agarbatti and is more frequently made of a composition containing less or no charcoal that some customers prefer. The primary importer may attach the fragrance or may sell the unfragranced agarbatti to other U.S. companies for their further processing and sale. ***, telephone interview with USITC staff, March 6, 2012; USITC, hearing transcript, March 30, 2012, 62 (testimony of Arjun Ranga, AIAMA). Imports of unfragranced agarbatti would be entered under a subheading other than 3307.41.00. ***, telephone interview with USITC staff, March 7, 2012.

[18] "Alexandria's Effusion Lamp Selection," http://www.pcfallon.com/c-838-alexandrias-brand-lamps.aspx.

TABLE 9.2 Agarbatti and other burned incense (HTS subheading 3307.41.00): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	20,949	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	12,043	57	100	([b])
India	10,637	51	88	([b])

Source: Compiled from official statistics of the U.S. Department of Commerce.

[a] Not applicable.
[b] Not available.

The number of agarbatti and incense shape and powder producers in India is unclear because most of the labor-intensive production reportedly is carried out by rural, low-income, unskilled workers (primarily women) at their homes.[19] To produce agarbatti, uncoated bamboo sticks are hand-rolled in unfragranced paste, then transported to "industrial houses" for application of the fragrance ("masala"). The finished product is distributed back among households for packaging, then returned for collection and transport.[20] The production and production capacity of the Indian agarbatti industry are unknown,[21] but it is reported to be the largest agarbatti producer in the world.[22]

The Indian industry was the largest exporter in the world during 2006–10, accounting for 26–29 percent of global exports of agarbatti and other burned incense. The largest export markets for Indian agarbatti and incense shapes and powder during 2006–10 were the European Union, which accounted for 21 percent of Indian exports, followed by the United States, which accounted for 16 percent. Other important export markets during 2006–10 were Ethiopia, Malaysia, Nigeria, South Africa, Sri Lanka, and the United Arab Emirates.[23]

U.S. Imports and Exports

The value of U.S. imports of agarbatti and other burned incense peaked in 2008 and declined significantly in 2009 before recovering somewhat by 2011. India is the largest source of U.S. imports of agarbatti and other burned incense (table 9.3). China and France are the second- and third-largest import sources, respectively. As the second-largest exporter of agarbatti and other burned incense in the world, China supplied 17 percent of U.S. imports in 2011 and is not eligible for GSP benefits. The United States imported 7 percent of China's total exports of agarbatti and other burned incense in 2010.[24] As the third-largest exporter of agarbatti and other burned incense in the world,

[19] In his testimony, the AIAMA representative said there are more than 1,000 manufacturers in India. USITC, hearing transcript, March 30, 2012, 59 (testimony of Arjun Ranga, AIAMA). One study in 1996 stated that there were "more than 800 registered and 3,000 unregistered units" in India, with 10 percent of them exporting agarbatti. Hanumappa, "Agarbathi: A Bamboo-Based Industry in India," 1996.
[20] Rakesh Kumar, EPCH, written submission to the USITC, March 12, 2012, 1–2.
[21] The EPCH provided industry employment estimates of several million Indians.
[22] USITC, hearing transcript, March 30, 2012, 89 (testimony of Arjun Ranga, AIAMA).
[23] GTIS, World Trade Atlas database (accessed March 13, 2012) (as adjusted by USITC staff).
[24] GTIS, World Trade Atlas database (accessed March 13, 2012).

TABLE 9.3 Agarbatti and other burned incense (HTS subheading 3307.41.00): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
India	8,570,570	7,594,967	8,552,441	10,945,106	10,637,441
China	5,309,932	9,681,806	4,305,949	3,555,945	3,653,037
France	1,718,862	3,482,789	1,534,783	3,587,289	2,666,999
Thailand	2,425,136	1,890,653	2,318,925	1,515,302	1,234,962
Japan	904,487	815,772	687,420	931,034	1,023,628
Hong Kong	724,724	652,480	778,006	754,200	844,824
Vietnam	59,526	66,524	107,516	139,150	178,485
Saudi Arabia	31,920	61,187	81,557	92,623	101,181
South Africa	0	0	0	10,042	73,698
Canada	217,439	174,478	11,106	6,240	55,902
All other	4,394,853	2,385,586	428,396	388,678	478,873
Total	24,357,449	26,806,242	18,806,099	21,925,609	20,949,030
Imports from GSP-eligible countries:					
India	8,570,570	7,594,967	8,552,441	10,945,106	10,637,441
Thailand	2,425,136	1,890,653	2,318,925	1,515,302	1,234,962
South Africa	0	0	0	10,042	73,698
Nepal	24,985	53,499	27,627	33,213	31,691
Fiji	3,581	6,951	6,445	12,712	26,927
Indonesia	35,224	83,446	7,357	32,861	26,406
Pakistan	9,336	5,647	22,452	15,512	8,236
Ethiopia	11,075	49,033	10,376	32,471	3,424
Venezuela	2,340	0	0	4,034	0
Total	11,082,247	9,684,196	10,945,623	12,601,253	12,042,785

Source: Official statistics of the U.S. Department of Commerce.

France supplied 13 percent of U.S. imports in 2011 and also is not eligible for GSP benefits. The United States imported 19 percent of France's total exports of agarbatti and other burned incense in 2010.[25]

The United States is the world's sixth-largest exporter of agarbatti and other burned incense, after India, China, France, Vietnam, and Thailand. The largest markets for U.S. exports of agarbatti and other burned incense are Canada and Japan (table 9.4).[26] The U.S. agarbatti industry primarily exports U.S.-fragranced agarbatti (usually Chinese-

[25] GTIS, World Trade Atlas database (accessed March 13, 2012). Approximately *** percent of imports from *** entered under subheading 3307.41.00 during 2010–11 were fragrance lamps ***. Sources in the U.S. fragrance lamp industry stated that they did not consider agarbatti or incense in shape or powder form to compete with fragrance lamps in the U.S. market because of the difference in price and the room-deodorizing properties of fragrance lamps. ***, telephone interview with USITC staff, March 6, 2012; ***, telephone interview with USITC staff, March 7, 2012. In his testimony, the AIAMA representative agreed. USITC, hearing transcript, March 30, 2012, 71 (testimony of Arjun Ranga, AIAMA). ***. ***, telephone interview with USITC staff, March 7, 2012. ***.

[26] A couple of U.S. companies indicated that their exports are small, individual sales initiated through their Websites, and that they do not have a routine export relationship with foreign companies. ***, telephone interview with USITC staff, March 5, 2012; ***, telephone interview with USITC staff, March 5, 2012.

origin raw agarbatti fragranced with U.S. product) and some imported Indian agarbatti.[27] ***.[28]

TABLE 9.4 Agarbatti and other burned incense: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Canada	2,006,758	2,481,572	1,199,436	1,547,777	1,384,135
Japan	325,552	1,575,110	1,644,291	1,359,159	1,174,398
Australia	0	37,533	2,805	95,960	265,462
United Kingdom	1,500,372	706,847	447,109	338,705	229,247
Mexico	284,525	180,087	148,190	200,765	202,014
Trinidad & Tobago	3,000	584,516	339,333	78,823	138,000
Costa Rica	12,650	37,011	27,340	21,249	124,547
New Zealand	0	0	0	0	78,690
Taiwan	20,720	3,762	33,277	100,914	71,344
Guatemala	4,838	0	0	4,779	68,671
All other	834,295	1,836,782	1,829,424	526,108	317,876
Total	4,992,710	7,443,220	5,671,205	4,274,239	4,054,384

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

Petitioner: The petitioner, the Export Promotion Council for Handicrafts (EPCH), an organization sponsored by the Ministry of Textiles in the Government of India, requested the waiver of the CNL for India for the subject product. EPCH, in its petition to USTR, stated that the agarbatti industry in India is comprised of rural, unskilled, poor, and uneducated workers, primarily women, who fashion agarbatti by hand in their houses and other small facilities from raw material that is all sourced locally. In its petition, EPCH provided an estimate of industry employment in India of more than 2 million workers. It stated that because the industry requires no machinery or electrical power and very little capital investment, agarbatti production is very suitable for economic development purposes in the poorer parts of India. In its petition, EPCH did not address whether the granting of the CNL waiver would have an effect on the U.S. agarbatti and other burned incense industry or on the U.S. consumer.[29]

In supplemental information provided to the Commission, EPCH noted that the income generated by Indian agarbatti production workers supplements the household income provided by their similarly unskilled spouses, who primarily work in agricultural jobs. EPCH stated that, of the final value of the agarbatti product, materials and packaging

[27] ***, telephone interview with USITC staff, March 5, 2012.

[28] ***, telephone interview with USITC staff, March 6, 2012.

[29] Rakesh Kumar, EPCH, Ministry of Textiles, Government of India, petition submitted to the USTR, December 23, 2011.

account for 15–35 percent and labor accounts for approximately 50 percent.[30] EPCH also stated that, in recognition of the importance of the agarbatti industry to India, Indian state governments "have kept a zero percent commercial tax" on agarbatti and that microfinance companies fund agarbatti production "clusters."[31]

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for this HTS subheading.

[30] Rakesh Kumar, EPCH, Ministry of Textiles, Government of India, written submission to the USITC, March 12, 2012. In the written statement provided at the hearing, the AIAMA stated that labor accounts for 40 percent of the final value. AIAMA, written testimony to the USITC, March 30, 2012.

[31] Rakesh Kumar, EPCH, Ministry of Textiles, Government of India, written submission to the USITC, March 12, 2012.

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CHAPTER 10
Seamless Rubber Gloves Other than Medical Gloves

Competitive Need Limitation Waiver (Thailand)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
4015.19.10[a]	Seamless rubber gloves	3.0	Yes
[a] Thailand exceeded the dollar value CNL for this HTS subheading in 2011. HTS subheading 4015.19.10 was added to the GSP in or before 1989.			

The subject seamless rubber gloves are made of natural rubber, including latex, and may be either disposable or nondisposable. They are used for personal and hand protection by those working with electrical hazards, chemicals, and nuclear wastes in a variety of industries. These gloves may also be used for hand and product protection by workers in such industries as food service and automobile production and repair, as well as in the clean rooms of the electronic and semiconductor industries. They are also used by home consumers. These gloves do not include rubber gloves used by the medical field (either surgical or medical examinations gloves, which are classified in HTS subheadings 4015.11.01 and 4015.19.05). While most world producers of seamless rubber gloves use the same or similar production processes, different types of gloves for specific uses are required to meet varying standards or specifications of the customers.

Advice

* * * * * * *

[1] The petitioner is the Government of Thailand.

Profile of U.S. Industry and Market, 2007–11

There are five known U.S. companies domestically producing the seamless rubber gloves classified in HTS subheading 4015.19.10.[2] These five companies produce high-end seamless rubber gloves that are sold mostly in niche markets, including to the U.S. Government. The types of subject rubber gloves produced by these five companies include those used to provide personal and hand protection against hazardous chemicals and nuclear materials, and provide electrical shock protection.

Overall U.S. production of the subject seamless rubber gloves is small relative to U.S. imports (an estimated $84 million in 2011 compared to $528 million in U.S. imports), and the U.S. producers' share of the U.S. market has been shrinking (table 10.1). U.S. producers' shipments fluctuated during the period, as did U.S. imports; both declined considerably in 2009, reflecting the downturn in the U.S. economy, and both increased in 2010. U.S. producers' shipments are estimated to have declined slightly in 2011, while U.S. imports increased that year. Overall, U.S. producers' shipments of the subject gloves rose by almost 8 percent during 2007–11, while U.S. imports of the subject gloves increased by 68 percent during the same period (table 10.1) The gloves made by domestic manufacturers differ from the subject rubber gloves imported from Thailand. U.S.-made gloves typically are thicker than the imported gloves and intended for maximum protection in niche markets. Imported gloves from Thailand are sold as commodity-type gloves for such uses as household or commercial cleaning, factory work on assembly lines, or other circumstances where less stringent personal, hand, or product protection is needed.

[2] Information in this paragraph is mostly from the domestic producers' Websites. They are I.S.A. Corporation, http://www.isacorporation.net/sites/default/files/Anti-C-Gloves-Brochure.pdf; Salisbury by Honeywell, http://www.salisburybyhoneywell.com/en-US/press/resourceliterature/Case%20Studies/110309Grant.pdf; Showabest Glove Company, http://www.showabestglove.com/site/content/pdf/catalog/US_EN.pdf; Guardian Manufacturing, http://www.guardian-mfg.com/store.asp?pid=22622&catid=19909; and Piercon Gloves USA Inc., http://www.piercanusa.com/gloves/glovesandsleeves.html (all accessed March-April 2012).

TABLE 10.1 Seamless rubber gloves other than medical gloves (HTS subheading 4015.19.10): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)[a]	5	5	5	5	5
Employment (*1,000 employees*)	([b])	([b])	([b])	([b])	([b])
Shipments *(1,000 dollars*)[c]	**78,000	**85,800	**75,000	**85,000	**84,000
Exports (*1,000 dollars*)	([d])	([d])	([d])	([d])	([d])
Imports (*1,000 dollars*)	314,234	348,555	316,318	455,130	528,392
Consumption (*1,000 dollars*)[e]	**392,234	**434,355	**391,318	**540,130	**612,392
Import-to-consumption ratio (*percent)*	**80	**80	**81	**84	**86
Capacity utilization (*percent*)	([b])	([b])	([b])	([b])	([b])

Source: Number of domestic producers and U.S. shipments estimated by Commission staff from various industry sources; U.S. imports compiled from official statistics of the U.S. Department of Commerce.

Note: **refers to staff estimates based on limited information; data are adequate for estimation with a moderate degree of confidence.

[a] Staff identified five domestic producers of the seamless rubber gloves. The known companies are I.S.A. Corp., Salem, OR; Salisbury by Honeywell, Bolingbrook, IL; Guardian Manufacturing, Willard, OH; Showabest, Menlo, GA; and Piercan USA Inc., San Marcos, CA.
[b] Data are unavailable.
[c] The trend in shipments data are estimated by Commission staff based on industry information.
[d] Export data comparable to U.S. import data for this HTS subheading are not available.
[e] U.S. consumption data do not include exports of the subject gloves, since export data are not available, but such exports are estimated to be minimal.

GSP Import Situation, 2011

U.S. imports of seamless rubber gloves other than medical gloves from GSP-eligible countries accounted for about 43 percent of U.S. consumption and 50 percent of total U.S. imports of these gloves in 2011 (table 10.2). Thailand was by far the largest GSP

TABLE 10.2 Seamless rubber gloves other than medical gloves (HTS subheading 4015.19.10): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	528,392	100	([a])	**86
Imports from GSP-eligible countries:				
Total	262,805	50	100	**43
Thailand	170,144	32	65	**28

Source: Compiled from official statistic of the U.S. Department of Commerce.

Note: **refers to staff estimates based on limited information; data are adequate for estimation with a moderate degree of confidence.

[a] Not applicable.

supplier during 2007–11, accounting for 65 percent of the total value of GSP imports in 2011. Indonesia was the second-largest supplier of GSP imports, accounting for 27 percent of the total value of GSP imports of these gloves in 2011. Together these two

countries accounted for 91 percent of the total value of GSP imports in 2011. GSP imports from Thailand alone increased by 83 percent during the 2007–11 period, from $93 million in 2007 to $170 million in 2011. However, Thailand's share of GSP imports increased only slightly, from 63 percent in 2007 to 65 percent in 2011. In Thailand, the industry producing rubber gloves consists of small and medium-sized enterprises, which are wholly owned Thai firms, many of which are family-owned businesses.

U.S. Imports and Exports[3]

U.S. imports of seamless rubber gloves other than medical gloves fluctuated during 2007–11, but grew overall by 68 percent from $314 million in 2007 to $528 million in 2011 (table 10.3). Thailand, which was the largest GSP supplier during 2007–11, overtook Malaysia to become the largest overall foreign supplier of these rubber gloves

TABLE 10.3 Seamless rubber gloves other than medical gloves (HTS subheading 4015.19.10): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Thailand	92,927,788	96,923,304	94,568,211	146,103,210	170,143,926
Malaysia	96,089,042	109,104,421	99,141,724	141,512,361	158,725,828
Indonesia	36,997,112	44,319,061	44,464,265	52,984,106	70,226,757
China	39,367,657	44,369,548	34,398,108	57,762,333	68,230,724
Sri Lanka	16,327,356	17,484,137	15,262,143	15,823,190	21,521,933
Mexico	13,931,522	14,167,358	10,003,124	14,083,563	13,712,841
Vietnam	2,286,938	6,119,942	5,222,400	10,100,632	10,486,968
Guatemala	5,572,350	5,826,537	3,472,142	4,953,675	4,336,215
Canada	25,340	22,499	1,839,574	2,858,777	2,683,319
Taiwan	2,523,305	2,945,184	2,630,656	3,608,687	2,679,067
All other	8,185,280	7,273,080	5,315,276	5,339,170	5,644,239
Total	314,233,690	348,555,071	316,317,623	455,129,704	528,391,817
Imports from GSP-eligible countries:					
Thailand	92,927,788	96,923,304	94,568,211	146,103,210	170,143,926
Indonesia	36,997,112	44,319,061	44,464,265	52,984,106	70,226,757
Sri Lanka	16,327,356	17,484,137	15,262,143	15,823,190	21,521,933
India	8,049	226,718	266,566	1,200,695	321,242
Philippines	0	911	0	1,216	300,983
Pakistan	27,932	37,221	230,874	68,411	287,050
Colombia	327	33,389	120,942	821	3,163
All other	95,074	0	0	83,601	0
Total	146,383,638	159,024,741	154,913,001	216,265,250	262,805,054

Source: Official statistics of the U.S. Department of Commerce.

in 2010 and remained the largest supplier in 2011. In 2011, Thailand accounted for 32 percent of total U.S. imports of the seamless rubber gloves other than medical gloves,

[3] Export data comparable to U.S. import data are not available for this HTS subheading, but are estimated to be minimal.

followed by Malaysia, Indonesia, and China. Together, these four countries accounted for 88 percent of total U.S. imports of the subject gloves in 2011.

Position of Interested Parties

Petitioner: In its petition as well as its official submission to the Commission, the Government of Thailand stated that continuation of GSP duty-free treatment for seamless rubber gloves other than medical gloves will help Thai producers remain competitive in the U.S. market for such gloves.[4] The petition further stated that Thailand's rubber industry, of which the production of the subject rubber gloves is increasingly a significant part,[5] is an important contributor to the country's economy, employing 6 million workers (almost 9 percent of the Thai population).[6] A second submission to the Commission by the Government of Thailand said that GSP benefits will boost competitiveness in key global markets like the United States,[7] which is Thailand's major market for the subject rubber gloves. The petition said that the rubber industry has been devastated by severe seasonal floods in the southern part of Thailand, where about 80 percent of Thailand's total production of rubber, the gloves' major input, is located. It is estimated that more than 200,000 acres of rubber production have been destroyed by the floods.[8] The petitioner further said that this damage has been especially hard on this industry, since it is made up largely of small and medium-sized enterprises. The petition indicated that these producers, with their limited capital and technology, especially need the competitive advantage of the continued removal of the 3 percent duty to help them compete with the large multinational manufacturing companies.[9]

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for this HTS subheading.

[4] Petition submitted on behalf of the Kingdom of Thailand to Request Waivers to the GSP Competitive Need Limitation Thresholds for the HTS 4015.19.10-Seamless Gloves of Vulcanized Rubber, submitted by Mrs. Kessiri Siripakorn, Commercial Minister, Office of Commercial Affairs, Royal Thai Embassy, 6–7.

[5] Petition, 5.

[6] Prehearing brief submitted by the Government of Thailand to Support Competitive Need Limitation Waivers for Seamless, Non-Medical Gloves of Vulcanized Rubber and parts of Air Conditioning Machines when imported from Thailand, and for GSP Eligibility for Pinch-Seal Bags, March 15, 2012, 4.

[7] Letter from Ambassador Kittipong na Ranong (Thai ambassador to the United States) to Ambassador Demetrios Marantis, Deputy United States Trade Representative, Office of the United States Trade Representative, Washington, DC, December 20, 2011, 2.

[8] Petition, 6.

[9] Petition, 4.

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_____. Royal Thai Embassy. Written testimony submitted to the United States International Trade Commission for preparation of its advice regarding the 2011 Annual GSP Review, Investigation No. 332-529, Pre-hearing Brief Submitted by the Government of Thailand to Support Competitive Need Limitation Waivers for Seamless, Non-Medical Gloves of Vulcanized Rubber and Parts of Air Conditioning Machines When Imported from Thailand, and for GSP Eligibility for Pinch-Seal Bags, March 15, 2012.

_____. Royal Thai Embassy. Written submission to the United States Trade Representative in connection with the 2011 Annual GSP Review, Letter written from Ambassador Kittipong na Ranong, Royal Thai Embassy, to Ambassador Demetrios Marantis, Deputy United States Trade Representative, December 20, 2011.

CHAPTER 11
Aluminum Alloy Plate, Sheet, and Strip

Competitive Need Limitation Waiver (Indonesia)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
7606.12.30[a]	Aluminum alloy plates/sheets/strip with a thickness exceeding 0.2 mm, rectangular (including square), not clad.	3	Yes
[a] Indonesia exceeded the dollar value CNL for this HTS subheading in 2011. HTS subheading 7606.12.30 was added to the GSP in or before 1989.			

Aluminum alloy plate, sheet, and strip are rectangular, flat-surfaced aluminum products of varying thicknesses[2] that contain alloying metals and minerals. Aluminum alloy plate, sheet, and strip are used in a variety of applications owing to aluminum's relative abundance and aluminum alloy's many desirable properties, which include its light weight, malleability, and corrosion resistance. These products are used by downstream industries such as transportation (for automobiles, aircraft, and trains); packaging (for beverage cans and food containers); construction (for windows, doors, and siding); and many other household and commercial items (such as ladders, blinds, and road signs).

Aluminum alloy plate, sheet, and strip are made by first melting primary (smelted) or secondary (recycled) aluminum with alloying metals such as copper, manganese, magnesium, and silicon. The molten aluminum alloy is then cast into a semifinished form (e.g., slabs or ingots) before being sent to a rolling mill where it is hot-rolled and then cold-rolled to sales specifications to create aluminum plate or sheet. Once the desired thickness is achieved, sheet may be "slit" to widths as narrow as one-fourth inch to create aluminum alloy strip.[3] The plate, sheet, and strip may then be further finished through heat treating, aging, or oiling, among other procedures.

[1] The petitioners are the Government of Indonesia; Empire Resources, Inc.; Galex, Inc.; and Ta Chen International, Inc.

[2] Aluminum alloy plate, as defined in the U.S. Harmonized Tariff Schedule, has a thickness greater than 6.3 mm but less than one-tenth of the width. Aluminum alloy sheet and strip have a thickness of 6.3 mm or less but greater than 0.2 mm. Aluminum alloy products with a thickness greater than one-tenth of the width would be considered aluminum alloy bars, and products with a thickness of less than 0.2 mm are considered aluminum alloy foils. *Harmonized Tariff Schedule of the United States (2012)*, "Chapter 76: Aluminum and Articles Thereof," 2012, XV 76-1.

[3] The Aluminum Association, "Rolling Aluminum: From the Mine through the Mill," 2007, 6-4.

Advice

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Profile of U.S. Industry and Market, 2007–11

The aluminum rolling industry in the United States consists of a few large multinational companies with highly integrated U.S. and Canadian facilities, as well as several smaller specialized U.S. companies (table 11.1). In 2011, the U.S. aluminum plate, sheet, and strip industry consisted of roughly 17 aluminum rolling companies with a collective capacity of approximately 90 percent of a reported combined U.S.-Canadian capacity of 5.2 million metric tons.[4] Although the names and ownerships of some U.S. aluminum rolling mills have changed since 2007, the number of facilities producing sheet have essentially remained the same. New greenfield aluminum rolling mills in the United States are not expected in the near future because of their significant capital costs as well as the amount of idled aluminum rolling capacity available.[5] However, both of the largest U.S. aluminum rollers, Novelis and Alcoa, announced during 2011 that they planned to expand their current rolling capacity at existing mills to meet growing demand for automotive aluminum sheet.[6]

TABLE 11.1 Aluminum alloy plate, sheet, and strip (HTS subheading 7606.12.30): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	*17	*17	*17	*17	*17
Employment (*1,000 employees*)	17.1	17.8	16.7	([a])	([a])
Shipments *(1,000 dollars*)	*11,300,000	*11,200,000	*7,500,000	*9,100,000	*9,700,000
Exports (*1,000 dollars*)	1,797,442	1,905,860	1,474,969	1,660,753	2,232,248
Imports (*1,000 dollars*)	2,365,681	2,086,429	1,095,796	1,697,480	1,952,455
Consumption (*1,000 dollars*)	*12,500,000	*12,300,000	*8,200,000	*10,100,000	*10,700,000
Import-to-consumption ratio (*percent)*	*19	*17	*13	*17	*18
Capacity utilization (*percent*)	*82	*79	*67	*73	*80

Source: Number of producers, employment, shipments, and capacity utilization estimated by Commission staff from various industry sources; exports and imports compiled from official statistics of the U.S. Department of Commerce.

* Estimated by Commission staff based on partial information/data adequate for estimation within a moderate degree of confidence.

[a] Data are unavailable.

Although U.S. consumption has increased from its low in 2009, it has not returned to 2007 levels. In 2011, U.S. aluminum orders for all products increased except for foil and

[4] Aluminum Association, "Estimated U.S. and Canadian Sheet and Plate," *Industry Statistics*, March 9, 2011; ***, telephone interview with USITC staff, March 7, 2012.

[5] *Metal Bulletin*, "No New US Aluminum Rolling Mills Needed: Execs," April 13, 2011; *Metal Bulletin*, "Novelis Chooses Oswego, NY, for Mill Expansion," July 26, 2011.

[6] *Metal Bulletin*, "Novelis Chooses Oswego, NY, for Mill Expansion," July 26, 2011; *Metal Bulletin*, "Alcoa Plans $300M Davenport Expansion," September 16, 2011.

can sheet, the latter being a subject product.[7] In particular, orders for aluminum sheet rose as demand for lightweight automobiles and other transportation vehicles increased and is projected to continue increasing as automakers strive to produce lighter, more fuel-efficient cars. On the other hand, the low level of residential building and construction in the United States has depressed related demand for aluminum sheet. According to some industry observers, U.S. consumption of aluminum plate, sheet, and strip is not expected to recover to previous highs until at least the year 2014.[8] In early 2011, it was noted that rising aluminum prices were driving increased U.S. imports for consumption of lower-priced flat-rolled aluminum products from China and Indonesia. This was especially true of lower-grade, common alloy aluminum suitable for building products or for repainting and further finishing.[9]

GSP Import Situation, 2011

In 2011, Indonesia was the third-largest supplier of U.S. imports and the leading GSP-eligible import supplier to the U.S. market. During 2009–11, Indonesia's share of GSP imports increased significantly, rising from 14 percent to 37 percent (table 11.2) and surpassing those from South Africa, the country with the highest share during 2008–10. U.S. GSP is the most significant of several national preferential-tariff programs available to Indonesian aluminum exports, including those of Australia, Europe, Japan, Korea, and other Southeast Asian countries.[10]

TABLE 11.2 Aluminum alloy plate, sheet, and strip (HTS subheading 7606.12.30): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	1,952,455	100	([a])	*18
Imports from GSP-eligible countries:				
Total	531,098	27	100	*5
Indonesia	196,838	10	37	*2

Source: Compiled from official statistics of the U.S. Department of Commerce.

* Estimated by Commission staff based on partial information/data adequate for estimation within a moderate degree of confidence.

[a] Not applicable.

There are four aluminum rollers in Indonesia, PT Alumindo Light Metal (ALMI), PT Indoalum Intikarsa Industri, PT Intibumi Alumindot Ama Industry, and PT Starmas Inti Alumindium Industry (Starmas). Petitioner estimates that Indonesia produced 159,000

[7] *Metal Bulletin,* "NA Aluminum Orders Up 18.1 Percent in December," January 12, 2012.
[8] *Metal Bulletin,* "Flat-rolled Aluminum Demand Weakness to Persist, Execs Say," June 9, 2011.
[9] *Metal Bulletin,* "Aluminum Imports More Attractive As Tags Rise," March 30, 2011; *Metal Bulletin,* "Nichols Aluminum Shows Quarterly Shipment Drop," August 27, 2011; USITC, hearing transcript, March 30, 2012, 56 (testimony of Nathan Kahn on behalf of Empire Resources).
[10] Squire, Sanders and Dempsey LLP, on behalf of Ta Chen International, Inc., petition to the U.S. Trade Representative (public version), December 30, 2011, 9; Hogan Lovells, LLP, on behalf of Empire Resources, petition to the U.S. Trade Representative (public version), December 22, 2011, 6.

metric tons of aluminum alloy plate, sheet, and strip in 2010, and 127,000 metric tons from January through September 2011.[11] ALMI, the largest Indonesian aluminum roller, reportedly produced *** metric tons from January through October 2011, with a capacity utilization rate of *** percent.[12] ALMI increased capacity in 2011 with the addition of a new cold-rolling mill. Starmas, a significantly smaller operator, noted that it is close to maximum capacity utilization and will consider expanding under favorable circumstances.[13] Total Indonesian annual aluminum alloy sheet and strip capacity is estimated at *** metric tons, with an estimated capacity utilization rate of *** percent in 2011.[14]

Currently, approximately 37 percent of Indonesian production is consumed domestically, with the remainder exported. Petitioners estimate that more than 50 percent of Indonesian aluminum alloy plate, sheet, and strip produced is exported to the United States.[15] ALMI exports *** percent of its production, ***.[16]

U.S. Imports and Exports

Tables 11.3 and 11.4 provide trade data for this HTS subheading. Canada is the leading source of imports into the United States of aluminum alloy plate, sheet, and strip. However, according to the Aluminum Association, these figures for Canada include intra-company trade of aluminum alloy plate, sheet, and strip for processing into downstream aluminum alloy products.[17]

[11] Hogan Lovells, LLP, on behalf of Empire Resources, petition to the U.S. Trade Representative (public version), December 22, 2011, 8.

[12] Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt LLP, on behalf of Galex, Inc., petition to the U.S. Trade Representative (business confidential version), December 29, 2011, 6.

[13] Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt LLP, on behalf of Galex, Inc., petition to the U.S. Trade Representative (public version), December 29, 2011, 7.

[14] Hogan Lovells, LLP, on behalf of Empire Resources, petition to the U.S. Trade Representative, December 22, 2011, 9; Hogan Lovells, LLP, on behalf of Empire Resources, petition to the U.S. Trade Representative, December 22, 2011, exh. 3; Government of the Republic of Indonesia, petition to the U.S. Trade Representative (public version), December 30, 2011, 6.

[15] Hogan Lovells, LLP, on behalf of Empire Resources, written submission (public version) to the USITC, March 15, 2012, 5.

[16] Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt LLP, on behalf of Galex, Inc., petition to the U.S. Trade Representative (business confidential version), December 29, 2011, 6.

[17] ***, telephone interview with USITC staff, March 7, 2012.

TABLE 11.3 Aluminum alloy plate, sheet, and strip (HTS subheading 7606.12.30): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Canada	1,072,462,411	951,148,087	489,725,879	728,233,934	795,507,585
Germany	207,428,234	224,914,180	161,581,266	159,411,539	213,631,091
Indonesia	121,259,191	86,416,447	32,323,592	151,431,595	196,838,479
South Africa	158,965,075	153,940,357	96,666,897	155,350,364	190,175,226
China	133,075,415	132,274,563	27,487,822	124,444,110	162,192,113
Austria	72,305,683	81,017,916	57,292,140	69,063,569	69,359,065
Bahrain	62,832,440	62,919,832	28,107,475	47,432,366	63,394,564
Greece	47,992,505	33,001,857	39,160,521	66,439,169	53,093,783
Brazil	78,264,116	41,281,494	29,210,331	33,148,910	50,702,753
Russia	167,158,786	131,014,850	46,608,069	34,532,510	34,233,272
All other	243,937,076	188,499,914	87,632,212	127,991,701	123,327,253
Total	2,365,680,932	2,086,429,497	1,095,796,204	1,697,479,767	1,952,455,184
Imports from GSP-eligible countries:					
Indonesia	121,259,191	86,416,447	32,323,592	151,431,595	196,838,479
South Africa	158,965,075	153,940,357	96,666,897	155,350,364	190,175,226
Brazil	78,264,116	41,281,494	29,210,331	33,148,910	50,702,753
Russia	167,158,786	131,014,850	46,608,069	34,532,510	34,233,272
India	12,613,653	23,029,893	10,113,641	31,761,198	34,185,298
Egypt	7,742,644	16,272,984	8,583,595	14,094,155	15,284,501
Turkey	13,323,062	10,383,645	5,584,815	11,611,985	6,080,054
Colombia	409,744	1,604,636	1,705,327	4,671,262	2,120,627
Venezuela	25,626,791	9,951,898	6,045,202	1,681,389	1,296,971
Georgia	0	0	0	0	127,714
All other	518,381	68,044	34,433	22,680	52,971
Total	585,881,443	473,964,248	236,875,902	438,306,048	531,097,866

Source: Official statistics of the U.S. Department of Commerce.

TABLE 11.4 Aluminum alloy plate, sheet, and strip: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Mexico	461,923,359	554,244,632	491,940,064	541,220,320	734,673,731
Canada	643,364,451	649,830,116	447,163,024	544,862,119	588,073,695
Saudi Arabia	88,101,598	102,359,171	29,467,150	46,337,988	175,600,703
China	60,573,831	109,804,545	111,868,329	83,675,248	106,327,412
Korea	47,403,091	53,550,021	32,612,260	53,423,603	71,745,276
Guatemala	29,678,990	42,054,632	45,931,463	47,151,509	62,308,841
France	6,431,489	18,102,763	25,500,999	37,247,130	54,403,132
Japan	55,812,208	37,166,249	12,386,892	23,147,644	52,873,095
Kuwait	20,863,722	22,159,439	24,897,042	6,909,807	47,646,551
United Kingdom	37,228,812	29,263,032	26,820,282	25,244,674	46,350,795
All other	346,059,963	287,325,840	226,381,349	251,533,166	292,244,358
Total	1,797,441,514	1,905,860,440	1,474,968,854	1,660,753,208	2,232,247,589

Source: Official statistics of the U.S. Department of Commerce.

Imports from Indonesia increased their share of total U.S. imports from a low of 3 percent in 2009 to 10 percent in 2011. Indonesian producers consider China to be their closest competitor for imports into the United States, and both reportedly compete for a niche that U.S. producers do not adequately serve.[18] Indeed, China is the third-highest source of non-GSP eligible U.S. imports and reportedly produces a similar product, in terms of price, grade, and finish, to that of Indonesia.[19]

Position of Interested Parties

Petitioners: The Government of the Republic of Indonesia and three U.S. importers—Empire Resources, Galex, and Ta Chen International—all submitted petitions to USTR for a CNL waiver for subject aluminum alloy plate, sheet, and strip.

The petitioners described Indonesian producers as not yet fully competitive on an international level. Even though the U.S. tariff is relatively low at 3 percent, petitioners said that this slight duty preference in the U.S. market allowed Indonesian exports to be competitive with non-GSP countries, particularly China, in this highly price-competitive industry. According to the petitioners, Indonesia exports over one-half of its production and is heavily dependent on exports to the United States. Additionally, they noted that all of its other major export markets grant preferential GSP-type benefits to Indonesian aluminum alloys. The petitioners also contend that, besides assisting the Indonesian industry, a CNL waiver would not lead to more competition with U.S. production, which is generally of a higher grade and sold in larger quantities. Instead, they said their low cost product would pass along savings to their U.S. manufacturing customers, thereby enhancing their international competitiveness.[20]

The petitioners also explained that high aluminum prices in the first half of 2011 led to Indonesian aluminum alloy exceeding the GSP dollar limit.[21] They noted that a large part of aluminum alloy plate, sheet, and strip production costs are for the raw material.[22] Additionally, they claimed that even after the price of aluminum fell, metal fabricators

[18] Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt LLP, on behalf of Galex, Inc., petition to the U.S. Trade Representative (public version), December 29, 2011, 9; Hogan Lovells, LLP, on behalf of Empire Resources, petition to the U.S. Trade Representative (public version), December 22, 2011, 6, 11. Hogan Lovells, LLP, written submission (public version) to the USITC, March 15, 2012, 3. According to witness testimony, unfinished Indonesian aluminum alloy imports are typically purchased in small lot orders by small U.S. metal fabricators, a market that U.S. producers historically have not served. Rather, U.S. producers have focused on value-added, finished rolled products and larger orders. Indonesian producers are reported to not have the capacity and have not invested in the finishing equipment required for this higher-priced market. USITC, hearing transcript, March 30, 2012, 36–37, 66–67 (testimony of Nathan Kahn on behalf of Empire Resources).

[19] USITC, hearing transcript, March 30, 2012 (testimony of Bernard Neuhaus on behalf of Galex); USITC, hearing transcript, March 30, 2012, 37 (testimony of Nathan Kahn on behalf of Empire Resources).

[20] The Government of the Republic of Indonesia, written submission (public version) to the USITC, March 15, 2012, 3,5; Hogan Lovells, LLP, on behalf of Empire Resources, written submission (public version) to the USITC, March 15, 2012, 3-6; Squire, Sanders and Dempsey LLP, on behalf of Ta Chen International, Inc., petition to the U.S. Trade Representative (public version), December 30, 2011, 3-4.

[21] Hogan Lovells, LLP, on behalf of Empire Resources, written submission (public version) to the USITC, March 15, 2012, 3.

[22] Squire, Sanders and Dempsey LLP, on behalf of Ta Chen International, Inc., petition to the U.S. Trade Representative (public version), December 30, 2011, 11.

sought to replenish their stocks while prices were relatively low, thereby increasing demand.[23]

The petitioners noted Indonesia's classification by the World Bank as a lower-middle-income economy with a poverty rate of 12.5 percent.[24] They wrote that the aluminum alloy rolling industry is relatively important to Indonesia's economy because it is a value-added product that stimulates investment and provides jobs. Additionally, the petitioners observed that the aluminum rolling mills are located in densely populated areas of the country where one employed person typically supports an extended family of five to eight.[25] Without a waiver, they claim that hundreds of well-paying jobs in Indonesia would be lost. They also contend that a waiver would allow Indonesian aluminum rollers to expand their production capacity and increase local employment.[26]

Support: PT Alumindo (ALMI), the largest Indonesian producer of aluminum alloy plate, sheet, and strip, provided testimony in support of granting the requested waiver. ALMI testified that domestic Indonesian demand continues to grow steadily at 5 percent a year and the majority is supplied by Indonesian producers. In terms of their exports to the United States, they noted that their operations are more customizable for small orders than U.S. production, which gives them an edge in their niche market.[27]

[23] Hogan Lovells, LLP, on behalf of Empire Resources, written submission (public version) to the USITC, March 15, 2012, 3.

[24] Government of the Republic of Indonesia, petition to the U.S. Trade Representative (public version), December 30, 2011, 3.

[25] Government of the Republic of Indonesia, written submission (public version) to the USITC, March 15, 2012, 4.

[26] Grunfeld, Desiderio, Lebowitz, Silverman and Klestadt LLP, on behalf of Galex, Inc., petition to the U.S. Trade Representative (public version), December 29, 2011, 1, 4, 7.

[27] USITC, hearing transcript, March 30, 2012, 53 and 68 (testimony of Welly Muliawan on behalf of PT Alumindo).

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_____. "Alcoa Plans $300M Davenport Expansion," September 16, 2011.

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Squire, Sanders and Dempsey LLP, on behalf of Ta Chen International. Written submission to the United States Trade Representative in connection with the 2011 Annual GSP Review, Petition for a Waiver of Competitive Need Limitation for HTS 7606.12.30 from Indonesia, December 30, 2011.

CHAPTER 12
Certain Air Conditioner Parts

Competitive Need Limitation Waiver (Thailand)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
8415.90.80[a]	Parts for air conditioning machines, nesoi	1.4	Yes
[a] Thailand exceeded the dollar value CNL for this HTS subheading in 2011. In 1995, HTS subheading 8415.90.80 was broken out from HTS subheading 8415.90.00, which was added to the GSP in or before 1989.			

The products covered under HTS subheading 8415.90.80 are parts of air conditioning machines, including parts for inverter-driven, ductless split systems.[2] This HTS subheading also includes parts for use in automobile air conditioners, heat pumps, air conditioning evaporator coils incorporated into a refrigerating unit, and other miscellaneous parts, such as parts for condensers and evaporators.[3]

Advice

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Profile of U.S. Industry and Market, 2007-11

Data for U.S. producers' shipments of air conditioner parts of the type imported under HTS subheading 8415.90.80 are not separately available. However, U.S. producers' shipments of all air conditioning equipment were estimated at approximately $20 billion annually during 2009–10. It is estimated that certain parts of air conditioners accounted for about 30 percent ($6 billion) of that total. In 2011, the U.S. industry producing air conditioner parts, including compressors and expansion valves, as well as the subject parts, consisted of approximately 1,250 firms (table 12.1). A number of firms producing parts for air conditioning machines also produce parts for refrigeration and heating equipment as well. The U.S. industry producing air conditioner parts consists of a few large firms and many small and medium-sized companies. Industry analysts estimate that

[1] The petitioner is Mitsubishi Electric & Electronics, USA, Inc. and the Government of Thailand.

[2] The petition filed with USTR requested the waiver of the competitive need limitation for Thailand for HTS subheadings 8415.10.90 (window or wall-type split system air conditioning machines) and 8415.90.80 (parts for air conditioning machines). HTS subheading 8415.10.90 was not accepted for review, and the USTR did not request that the USITC provide probable economic advice for that HTS subheading. Therefore, the ductless split systems are not covered in this report.

[3] Prehearing brief submitted to the USITC on behalf of Mitsubishi Electric, March 15, 2012, 11.

the top five air conditioner parts producers account for the dominant share of all U.S. shipments. Several of the largest firms in the industry producing air conditioner parts are multinational firms that distribute their products globally through direct export or wholly owned foreign subsidiaries. Several also have licensing arrangements for the foreign production of their parts.[4]

TABLE 12.1 Certain air conditioner parts (HTS subheading 8415.90.80): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)[a]	1,500	1,425	1,380	1,325	1,250
Employment (*1,000 employees*)	([b])	([b])	([b])	([b])	([b])
Shipments *(1,000 dollars*)	([b])	([b])	6,000,000	6,000,000	([b])
Exports (*1,000 dollars*)	948,468	903,380	715,589	948,980	980,656
Imports (*1,000 dollars*)	1,660,447	1,589,176	1,246,061	1,764,940	2,162,974
Consumption (*1,000 dollars*)	([b])	([b])	6,530,472	6,815,960	([b])
Import-to-consumption ratio (*percent)*	([b])	([b])	19	26	([b])
Capacity utilization (*percent*)	([b])	([b])	([b])	([b])	([b])

Source: U.S. imports and exports are from official statistics of the U.S. Department of Commerce. U.S. producers' shipments were estimated from official statistics of the U.S. Department of Commerce.

[a] *Air Conditioning, Heating & Refrigeration News*, HVACR Directory & Source Guide Issue, January 2, 2012.
[b] Data are not available.

The U.S. air conditioning parts industry consists of firms manufacturing a wide range of components used in the production of a variety of air conditioning equipment. Some of the components classified in HTS subheading 8415.90.80 have multiple applications. For example, certain parts of air conditioners can be components in both air conditioning and refrigeration machines. Also, commercial and industrial evaporator systems can be used in building both air conditioning systems and industrial refrigeration systems. Further, a distinct segment of the industry makes components used in the assembly of air conditioning units for automotive and aerospace applications.

In recent years, the U.S. industry producing air conditioner parts has undergone major structural changes as the result of mergers, acquisitions, and joint ventures with foreign firms. Major U.S. producers of these products have entered into joint ventures with foreign firms in an effort to improve their competitive position. According to U.S. industry sources, most major U.S. producers of air conditioner subassemblies purchase high-quality, low-cost foreign components for inclusion in their products.[5] The increased purchase of foreign components by U.S. producers has enabled the industry to increase its profitability and to better compete with foreign producers.

The manufacture of discrete air conditioner components tends to be capital intensive, including metal (steel and aluminum) rolling and stamping and plastic injection molding. However, the assembly of the components into condensers, evaporators, and other modules for finished air conditioning units is relatively labor intensive. As a result,

[4] Datamonitor, "Ingersoll-Rand, Plc, Company Profile," 5.
[5] Industry official, telephone interview by USITC staff, March 13, 2012. Examples of these components include thermostats and various types of electronic sensors.

several U.S. producers of air conditioners and parts have (or contract with) assembly operations in Mexico for condensers, evaporators, and other subassemblies (modules) to reduce their labor costs.[6]

GSP Import Situation, 2011

Thailand is the primary GSP supplier of parts of air conditioning machines to the United States, accounting for 84 percent of the value of U.S. imports from GSP countries in 2011 (table 12.2). U.S. imports of parts of air conditioning machines from Thailand more than doubled in value during 2007–11, rising from $73.4 million to $159.0 million in 2011 and accounting for 7 percent of total U.S. imports. Thailand was the fourth-largest import supplier of parts for air conditioning machines in 2011.

TABLE 12.2 Certain air conditioner parts (HTS subheading 8415.90.80): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousands $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	2,162,974	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	188,507	9	100	([b])
Thailand	158,983	7	84	([b])

Source: Compiled from official statistics of the U.S. Department of Commerce.

[a] Not applicable.
[b] Not available.

There are reportedly 230 firms in Thailand's air conditioning industry, the largest of which is believed to be Mitsubishi Electric & Electronics, a subsidiary of Mitsubishi, Inc. Of Mitsubishi's 158 global suppliers for its air conditioning equipment sector, 142 are located in Thailand.[7] Mitsubishi has 3,374 employees at its principal Thai facility for producing air conditioning parts.[8]

U.S. Imports and Exports

Mexico was the leading source of U.S. imports of parts for air conditioning machines in 2011, accounting for 54 percent of total U.S. imports of these products (table 12.3). China was the second leading supplier, accounting for 12 percent, followed by Japan (9 percent) and Thailand (7 percent). Total U.S. imports fell by 25 percent during 2007–09, from $1.7 billion to $1.3 billion, reflecting the decline in residential and commercial real estate construction in the United States, but rebounded in 2010 and 2011 as a result of increased demand for parts of automotive air conditioners.[9]

[6] *Air Conditioning, Heating, Refrigeration News*, "Friedrich—Last Room A/C Leaves U.S.," September 27, 2007.
[7] Mitsubishi Electric & Electronics USA, Inc., written submission to the USITC, April 4, 2012, 2.
[8] Mitsubishi Electric & Electronics USA, Inc., written submission to the USITC, Mar 6, 2012, 7.
[9] Plummer, Brad, "Big Three's Small Bet is Paying Off," *Washington Post,* April 4, 2012, A12.

TABLE 12.3 Certain air conditioner parts (HTS subheading 8415.90.80): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Mexico	866,892,751	728,889,988	646,024,379	914,517,616	1,159,940,543
China	195,171,808	173,076,636	146,288,637	236,390,081	253,984,408
Japan	130,911,002	182,439,464	111,600,109	174,749,231	200,605,802
Thailand	73,381,170	79,083,285	60,221,233	100,353,353	158,982,862
Canada	147,347,026	139,582,732	97,442,177	102,967,531	106,031,213
Korea	74,829,886	79,054,278	47,860,397	68,614,796	91,669,505
France	24,991,649	22,421,620	13,794,684	22,408,737	36,859,786
Germany	28,032,984	27,312,228	18,875,910	22,750,231	29,186,665
Taiwan	31,877,513	24,298,174	18,000,261	25,564,882	24,588,480
Italy	9,713,596	7,930,959	4,969,201	5,071,448	12,211,955
All other	77,297,946	125,086,746	80,984,878	91,552,698	88,913,568
Total	1,660,447,331	1,589,176,110	1,246,061,866	1,764,940,604	2,162,974,787
Imports from GSP-eligible countries:					
Thailand	73,381,170	79,083,285	60,221,233	100,353,353	158,982,862
Brazil	14,602,185	10,508,263	8,329,548	11,003,580	11,046,859
India	2,782,377	3,512,106	7,091,805	8,815,137	9,391,650
Philippines	4,658,996	7,226,254	5,485,295	6,778,829	5,825,650
Argentina	272,677	8,500	109,897	1,542,770	1,512,428
South Africa	908,680	1,362,949	885,264	443,656	580,804
Colombia	1,336,523	929,305	636,679	389,729	545,626
Jordan	200,954	70,595	99,144	259,122	221,796
Indonesia	40,058	124,690	29,245	67,451	176,231
Turkey	258,711	36,978	34,377	80,761	143,481
All other	97,477	110,726	78,504	51,530	80,161
Total	98,539,808	102,973,651	83,000,991	129,785,918	188,507,548

Source: Official statistics of the U.S. Department of Commerce.

North American Free Trade Agreement (NAFTA) partners, Canada and Mexico, are the leading U.S. export markets for parts of air conditioners, reflecting significant foreign direct investment by U.S. original equipment manufacturers of air conditioners and parts in those countries (table 12.4). Together, Canada and Mexico accounted for 65 percent of U.S. exports of parts for air conditioners in 2011. U.S. firms provide parts of air conditioners to their subsidiaries and other customers in Canada and Mexico.[10]

TABLE 12.4 Certain air conditioner parts: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Canada	443,836,571	397,409,223	274,346,695	389,048,576	461,804,661
Mexico	134,667,981	102,259,119	127,978,118	209,441,366	174,106,228
China	31,379,169	43,501,601	30,091,720	36,921,789	41,910,635
Saudi Arabia	73,735,675	80,255,459	68,776,997	66,266,384	33,823,934
United Arab Emirates	12,438,941	14,277,487	14,898,022	14,195,060	18,632,020
Brazil	11,046,298	12,198,837	9,885,763	14,096,536	16,783,623
Venezuela	22,797,498	28,688,306	16,278,314	11,497,526	15,325,579
Japan	6,867,132	7,377,236	3,887,168	6,957,887	12,562,637
Singapore	8,935,155	10,540,302	10,723,579	12,061,760	10,951,723
Hungary	174,232	165,429	1,777,226	5,928,151	10,738,903
All other	202,589,718	206,707,540	156,866,334	182,565,625	184,016,446
Total	948,468,370	903,380,539	715,509,936	948,980,660	980,656,389

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

Petitioner: Mitsubishi Electric & Electronics, USA, requested a CNL waiver for air conditioning machine parts (HTS subheading 8415.90.80) from Thailand. Mitsubishi noted that although Thailand exceeded the $150 million CNL in 2011 (by less than 6 percent), Thailand accounts for a relatively small share of total U.S. imports. Mitsubishi also noted that while the value of imported parts for air conditioning machines from Thailand increased in 2011, the number of air conditioning units exported to the United States declined substantially as Mitsubishi assembled more complete units (which are classified under a separate HTS subheading) in the United States. Mitsubishi stated that loss of GSP eligibility for Thailand with respect to parts for air conditioning machines will benefit producers of air conditioning parts in China, Japan, and Korea rather than U.S. producers.

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for this HTS subheading.

[10] Industry official, telephone interview by USITC staff, March 13, 2012.

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Plummer, Brad. "Big Three's Small Bet Is Paying Off." *Washington Post*, April 4, 2012.

CHAPTER 13
Brake Parts for Motor Vehicles

Competitive Need Limitation Waiver (India)[1]

HTS subheading	Short description	Col. 1 rate of duty as of Jan. 1, 2012 (percent ad valorem)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
8708.30.50[a]	Brakes and servo-brakes; parts thereof: for vehicles other than tractors suitable for agricultural use.	2.5	Yes
[a] India exceeded the dollar value CNL for this HTS subheading in 2011. In 2007, HTS subheading 8708.30.50 was broken out from HTS subheading 8708.31.50, which was added to the GSP in or before 1989.			

There are four types of brake parts included in the 8-digit HTS subheading 8708.30.50: brake drums, brake rotors, mounted brake linings, and other miscellaneous parts. A brake drum is a drum-shaped component, which rotates with the wheel of the motor vehicle. When the driver applies the brake to stop the motor vehicle, the brake shoes are pressed against the inside of the drum, using friction to slow or stop the vehicle.[2] A brake disc (rotor) is a flat circular plate that rotates with the wheel of a vehicle. When the driver applies the brake, a caliper squeezes the brake pads against the brake discs, slowing or stopping the vehicle.[3] Mounted brake linings, which include brake pads and shoes, are the primary wear portion of drum or disc brakes that press against the drum or disc. Other miscellaneous parts include studs,[4] steel tubes that transfer hydraulic brake pressure from the master cylinder to the wheel brake assembly,[5] and unfinished brake calipers.[6]

Advice

* * * * * * *

[1] The petitioners are EEPC India and Brake Parts Inc.

[2] Cx360.org, "Automotive Glossary," http://www.cx360.org/diy/automotive-glossary.htm (accessed February 23, 2012).

[3] Cx360.org, "Automotive Glossary," http://www.cx360.org/diy/automotive-glossary.htm (accessed February 23, 2012).

[4] U.S. DHS, CBP, Ruling NY N103820: tariff classification of an automotive brake part from Switzerland, May 20, 2010.

[5] U.S. DHS, CBP, Ruling NY N039277: tariff classification of automotive parts from South Korea, October 8, 2008.

[6] U.S. DHS, CBP, Ruling NY N057625: tariff classification, marking, country of origin and NAFTA applicability of an unfinished brake part from Italy, May 1, 2009.

Profile of U.S. Industry and Market, 2007–11

In 2010, the U.S. brake system manufacturing industry, which includes those firms producing brake parts, employed more than 19,000 workers (table 13.1).[7] This represents a substantial decline from 2007, when over 28,000 workers were employed in brake system manufacturing in the United States. The economic downturn of 2008 and 2009 likely contributed to decreased manufacturing and employment in this sector.

TABLE 13.1 Brake parts for motor vehicles (HTS subheading 8708.30.50): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2007–11

Item	2007	2008	2009	2010	2011
Producers (*number*)	([a])	([a])	([a])	([a])	([a])
Employment (*1,000 employees*)[b]	28.2	24.6	20.0	19.5	([a])
Shipments *(1,000 dollars*)	([a])	([a])	([a])	([a])	([a])
Exports (*1,000 dollars*)[c]	1,806,927	1,573,344	1,355,557	1,762,800	1,958,904
Imports (*1,000 dollars*)	4,059,867	3,866,264	3,151,460	3,949,495	4,072,897
Consumption (*1,000 dollars*)	([a])	([a])	([a])	([a])	([a])
Import-to-consumption ratio (*percent)*	([a])	([a])	([a])	([a])	([a])
Capacity utilization (*percent*)	([a])	([a])	([a])	([a])	([a])

Source: Data for employment are for brake systems, and are compiled from the U.S. Census Bureau, *Annual Survey of Manufacturers, 2009–10*; export and import data are compiled from official statistics of the U.S. Department of Commerce.

[a] Data are not available.
[b] Employment data are only available for brake systems, which is a larger category that includes brake parts.
[c] Export data are from a basket category that includes brake parts for agricultural tractors in addition to the subject products and are not directly comparable to import data.

The U.S. brake parts industry serves two markets in the United States—the original equipment manufacturers (OEMs) and the aftermarket. The original equipment suppliers produce brake parts for OEMs to incorporate into new vehicles or to be sold by the OEM's service network. This market tends to be highly correlated with new vehicle sales. The aftermarket is for replacement parts.

Although the number of U.S. producers of brake parts is not available, anecdotal information suggests that this number declined from 2007 to 2011. In the last decade, a number of U.S. brake parts manufacturers have outsourced production of brake parts to low-cost manufacturers abroad, particularly to supply the aftermarket. In 2011, little production of aftermarket brake rotors reportedly occurred in the United States.[8] According to industry sources, U.S. production of brake linings (especially for the aftermarket) has declined significantly as well.[9] U.S. original equipment suppliers have not faced as much international competition as those producing aftermarket brake parts, but they did face lower demand in 2008 and 2009, as North American motor vehicle production declined sharply. Motor vehicle production increased in 2010 and 2011, but

[7] The brake parts under review are included in a broader NAICS category, brake systems manufacturing (NAICS code 336340), U.S. Census Bureau, *Annual Survey of Manufacturers, 2009–2010*.
[8] Industry official, telephone interview with USITC staff, March 13, 2012.
[9] Friction Material Standards Institute Company Website, http://www.fmsi.org/members/active.php (accessed March 19, 2012).

has not yet returned to 2007 levels. Production for OEMs likely makes up the majority of U.S. brake part output.[10]

GSP Import Situation, 2011

In 2011, GSP imports accounted for 7 percent of total U.S. imports of brake parts for motor vehicles (table 13.2). India and Brazil were the largest U.S. suppliers of GSP-eligible imports of brake parts, representing nearly 87 percent of such imports in 2011. Nearly 63 percent of brake parts imported from India are mounted brake linings, and nearly 37 percent are miscellaneous brake parts, most of which are believed to be destined for the U.S. aftermarket. Of U.S. imports from Brazil, nearly 86 percent are miscellaneous brake parts.

TABLE 13.2 Brake parts for motor vehicles (HTS subheading 8708.30.50): U.S. imports and share of U.S. consumption, 2011

Item	Imports (thousand $)	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	4,072,897	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	277,614	7	100	([b])
India	154,943	4	56	([b])

Source: Compile from official statistics of the U.S. Department of Commerce.

[a] Not applicable.
[b] Not available.

In 2011, U.S. imports of brake parts from India totaled $155 million, a 9 percent increase from 2010 and a 236 percent increase since 2007. U.S. imports from India of mounted brake linings grew even more rapidly, from more than $2.9 million in 2007 to nearly $97.5 million in 2011. The largest exporter of brake linings to the U.S. market from India, MAT Holdings,[11] reported shipping brake linings to the United States valued at *** annually, which represented almost *** of U.S. imports of brake linings from India in 2011.[12]

U.S. Imports and Exports

The United States is believed to be the world's largest importer of the products covered under HTS subheading 8708.30.50. During 2007–11, U.S. brake part imports were relatively stable, except for a decline in 2008 and 2009 that was likely due to a large decrease in North American motor vehicle production (table 13.3). In 2011, China was the leading source of U.S. imports of brake parts with 30 percent ($1.2 billion) of total imports ($4.1 billion). Most Chinese production was likely destined for the aftermarket.

[10] Industry official, telephone interview with USITC staff, March 13, 2012.
[11] Industry official, telephone interview by USITC staff, March 13, 2012; industry official, telephone interview by USITC staff, March 14, 2012.
[12] MAT Holdings, Inc, written submission to the USTR, March 6, 2012.

TABLE 13.3 Brake parts for motor vehicles (HTS subheading 8708.30.50): U.S. imports for consumption by principal sources, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
China	701,920,809	861,286,206	877,236,714	1,110,794,114	1,208,377,371
Mexico	853,744,867	862,185,909	737,041,693	909,207,673	909,130,524
Canada	755,175,526	592,541,632	413,117,173	485,308,606	470,474,518
Japan	631,260,727	538,032,862	395,188,478	454,301,543	422,564,345
Korea	251,352,983	208,854,702	143,879,616	268,557,227	256,194,895
Germany	255,015,710	229,989,217	181,137,255	216,876,366	246,455,118
India	46,122,837	68,196,276	69,005,250	142,397,877	154,943,856
Italy	89,536,669	97,458,537	100,200,165	109,435,741	110,849,425
Brazil	188,551,546	160,966,974	81,507,773	70,347,512	85,203,481
United Kingdom	48,945,300	32,846,468	28,082,607	35,176,116	36,744,313
All other	238,239,537	213,904,876	125,063,307	147,091,991	171,959,387
Total	4,059,866,511	3,866,263,659	3,151,460,031	3,949,494,766	4,072,897,233
Imports from GSP-eligible countries:					
India	46,122,837	68,196,276	69,005,250	142,397,877	154,943,856
Brazil	188,551,546	160,966,974	81,507,773	70,347,512	85,203,481
Thailand	36,283,661	29,569,168	16,698,025	16,831,406	18,233,107
Turkey	5,000,637	8,380,766	6,159,001	8,303,940	12,194,032
Egypt	1,055,385	1,981,361	2,585,100	2,104,516	2,291,155
Argentina	7,057,356	3,582,834	1,156,278	1,145,283	1,421,447
Indonesia	1,627,513	1,020,673	385,225	677,348	1,289,072
Bosnia-Herzegovina	0	3,001	2,036	108,562	743,940
Philippines	1,260,104	717,011	208,140	598,460	708,304
South Africa	284,783	484,780	152,878	315,937	315,273
All other	6,184,313	1,502,755	681,662	535,496	270,489
Total	293,428,135	276,405,599	178,541,368	243,366,337	277,614,156

Source: Official statistics of the U.S. Department of Commerce.

Other sources were Canada (12 percent) and Mexico (22 percent), and most of their production was likely for the OEM market.

U.S. exports of brake parts totaled nearly $2 billion in 2011, up 8 percent from $1.8 billion in 2007 (table 13.4). Canada and Mexico, the leading U.S. export markets, accounted for 79 percent of U.S. exports of brake parts in 2011.

TABLE 13.4 Brake parts for motor vehicles: U.S. exports of domestic merchandise, by market, 2007–11

Country	2007	2008	2009	2010	2011
			In actual $		
Canada	1,133,922,755	883,664,158	795,012,473	985,291,069	973,024,138
Mexico	361,067,432	378,388,324	322,497,862	423,092,725	574,424,884
China	23,640,607	17,411,481	30,357,813	39,418,826	59,286,189
Australia	39,117,411	45,698,571	32,780,853	43,993,361	48,811,562
United Kingdom	19,258,798	20,384,778	17,536,527	25,028,582	29,350,027
Brazil	14,411,552	15,553,672	12,701,795	22,899,405	26,954,135
Germany	20,002,746	36,093,396	16,765,820	16,119,021	23,447,661
Belgium	9,589,741	13,394,879	12,345,145	16,437,858	21,513,530
Japan	26,455,291	18,049,520	11,809,705	17,842,895	20,706,251
Korea	20,397,432	19,755,833	8,209,852	18,167,458	20,377,153
All other	139,063,444	124,949,410	95,538,739	154,508,491	161,008,930
Total	1,806,927,209	1,573,344,022	1,355,556,584	1,762,799,691	1,958,904,460

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties

Petitioners: The petitioners for the CNL waiver for brake parts are Brake Parts Inc. (BPI) and EEPC India, both of which requested a waiver of the competitive need limitation for India for HTS subheading 8708.30.50. BPI stated in its petition to USTR that the United States should grant a CNL waiver for brake parts from India for four reasons: (1) it is an appropriate use of GSP; (2) it benefits the U.S. brake parts industry; (3) it is in the economic interest of the United States; and (4) India has made great progress on market access and intellectual property issues.[13] On the benefits to U.S. industry, BPI stated that multiple U.S. companies have chosen to manufacture brake parts in India and are likely to share in the benefits of continued duty-free access to the U.S. market. According to BPI, this access increases the competitiveness of brake parts produced in India. BPI also said that brake parts from India benefit U.S. consumers by supplying them with high-quality and affordable aftermarket brake products. On U.S. national economic interest, BPI stated that granting a CNL waiver will further the economic development of India, assist the U.S. aftermarket industry, and match preferential treatment that imports from other countries will receive. Also, BPI stated that India continues to be a relatively minor exporter of brake parts to the United States, totaling only 3.8 percent of subject imports during January–September 2011, and should

[13] BPI (McHenry, IL), part of the Affinia Group, is a multinational manufacturer, importer, and exporter of brake parts. BPI sells brake parts under the Raybestos brand name. Affinia Company Website, http://www.affiniagroup.com (accessed March 26, 2012).

not be considered to be competitive with major exporters of brake parts to the United States.

EEPC India stated in its petition to USTR that the United States should grant a CNL waiver for brake parts imported from India because imports from India are a relatively small share of overall U.S. brake part imports.[14] EEPC India is also concerned about a discrepancy between U.S. import and Indian export data. U.S. import data show significantly higher imports of brake parts from India than reported in Indian export data.[15]

No statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for this HTS subheading.

[14] EEPC India (formerly Engineering Export Promotion Council) was originally established by the Indian Ministry of Commerce in 1955 to promote Indian exports of engineering goods and services. EEPC India Company Website, http://www.eepcindia.org/brief-profile.asp (accessed March 26, 2012).

[15] ***

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APPENDIX A
USTR Request Letter

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

FEB 10 2012

The Honorable Deanna Tanner Okun
Chairman
United States International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Dear Chairman Okun:

The Trade Policy Staff Committee (TPSC) has recently decided to accept certain product petitions for the 2011 Annual Review for modification of the Generalized System of Preferences (GSP) and to review certain additional cotton products for possible designation as eligible articles for GSP benefits for least-developed beneficiary developing countries. Modifications to the GSP program that may result from this review are expected to be announced on or before June 30, 2012, and to become effective on or before July 1, 2012. In this connection, I am making the requests set out below.

In accordance with sections 503(a)(1)(A), 503(e), and 131(a) of the Trade Act of 1974, as amended ("the 1974 Act"), and pursuant to the authority of the President delegated to the United States Trade Representative (USTR) by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, and pursuant to section 332(g) of the Tariff Act of 1930, I hereby notify the Commission that the article identified in Part A of the enclosed Annex is being considered for designation as an eligible article for purposes of the GSP program, and I request that the Commission provide its advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers of the elimination of U.S. import duties on that article for all beneficiary developing countries under the GSP program.

In accordance with sections 503(a)(1)(B), 503(e), and 131(a) of the 1974 Trade Act, and pursuant to the authority of the President delegated to the USTR by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, and pursuant to section 332(g) of the Tariff Act of 1930, I hereby notify the Commission that the articles identified in Part B of the enclosed Annex are being considered for designation as eligible articles for countries designated as least-developed beneficiary developing countries under the GSP program, and I request that the Commission provide its advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers of the elimination of U.S. import duties on those articles for least-developed beneficiary developing countries under the GSP program.

Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, and in accordance with section 503(d)(1)(A) of the 1974 Act, I request that the Commission provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limitations specified in section 503(c)(2)(A) of the 1974 Act for the countries and articles specified in Part C of the enclosed Annex. Further, in accordance with section 503(c)(2)(E) of the 1974 Act, I request that the Commission provide advice with respect to whether like or directly competitive products were being produced in the United States on January 1, 1995. I also request that the Commission provide advice as to the probable economic effect on total U.S. imports, as well as on consumers, of the requested waivers. With respect to the competitive need limit in section 503(c)(2)(A)(i)(I) of the 1974 Act, the Commission is requested to use the dollar value limit of $150,000,000.

To the extent possible, I would appreciate it if the probable economic effect advice and statistics (profile of the U.S. industry and market and U.S. import and export data) and any other relevant information or advice is provided separately and individually for each U.S. Harmonized Tariff Schedule subheading for all products subject to this request.

In accordance with USTR policy on implementing Executive Order 13526, as amended, I direct you to mark or identify as "Confidential," for a period of ten years, such portions of the Commission's report and its working papers that contain the Commission's advice and assessment of probable economic effects on domestic industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers. Consistent with the Executive Order, this information is being classified on the basis that it concerns economic matters relating to the national security. In addition, USTR considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

I request that you submit an outline of this report as soon as possible to enable USTR officials to provide you with further guidance on its classification, including the extent to which portions of the report will require classification and for how long. Based on this outline, an appropriate USTR official with original classification authority will provide you with written instructions. All confidential business information contained in the report should also be clearly identified.

I would greatly appreciate if the requested advice, including those portions indicated as "Confidential" be provided to my Office by no later than 90 days from receipt of this letter. Once the Commission's confidential report is provided to my Office, and we review and approve the classification marking, the Commission should issue, as soon as possible thereafter, a public version of the report containing only the unclassified information, with any confidential business information deleted.

The Commission's assistance in this matter is greatly appreciated.

Sincerely,

Ambassador Ron Kirk

Annex

The Harmonized Tariff Schedule of the United States (HTS) subheadings listed below have been accepted as product petitions for the 2011 Generalized System of Preferences (GSP) Annual Review for modification of the GSP. The tariff nomenclature in the HTS for the subheadings listed below are definitive; the product descriptions in this list are *for informational purposes only* (except in those cases where only part of a subheading is the subject of a petition). The descriptions below are not intended to delimit in any way the scope of the subheading. The HTS may be viewed on http://www.usitc.gov/tata/index.htm.

A. **Petitions for addition of a product to the list of eligible products for the Generalized System of Preferences for All Beneficiaries**

Accepted Case No.	HTS Subheading	Brief Description	Petitioner
2011-13	3923.21.00	Sacks and bags (including cones) for the conveyance or packing of goods, of polymers of ethylene. *(Petition seeks GSP eligibility for statistical reporting number 3923.21.00.30, which would need to become a new eight-digit HTS subheading.)*	S. C. Johnson and Son, Racine, WI & Government of Thailand

B. **Petitions for addition of a product to the list of eligible products for the Generalized System of Preferences for Least Developed Beneficiaries**

Accepted Case No.	HTS Subheading	Brief Description
2011-01	5201.00.18	Cotton, not carded or combed, having a staple length under 28.575 mm (1-1/8 inches), n/harsh or rough, nesoi
2011-02	5201.00.22	Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, described in gen. note 15
2011-03	5201.00.24	Cotton,/carded or combed, harsh or rough, staple length 29.36875 mm or more but n/o 34.925 mm, white in color, quota described in ch 52 add US note 6
2011-04	5201.00.28	Cotton, not carded or combed, harsh or rough, staple length of 29.36875 mm or more but under 34.925 mm & white in color, nesoi
2011-05	5201.00.34	Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, other, quota described in chapter 52 add'l US note 7
2011-06	5201.00.38	Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, nesoi
2011-07	5202.91.00	Cotton garnetted stock
2011-08	5202.99.30	Cotton card strips made from cotton waste having staple length under 30.1625 mm & lap, sliver & roving waste, nesoi
2011-09	5203.00.05	Cotton fibers, carded or combed, of cotton fiber processed but not spun, described in gen. note 15
2011-10	5203.00.10	Cotton fibers, carded or combed, of cotton fiber processed but not spun, quota described in chapter 52 add'l US note 10
2011-11	5203.00.30	Cotton fibers, carded or combed, of cotton fiber processed, but not spun, nesoi
2011-12	5203.00.50	Cotton carded or combed, excluding fibers of cotton processed but not spun

C. Petitions for waiver of competitive need limits for a product on the list of eligible products for the Generalized System of Preferences.

Accepted Case No.	HTS Subheading	Brief Description	Petitioner
2011-14	1602.50.20 (Argentina)	Prepared or preserved beef in airtight containers, other than corned beef, not containing cereals or vegetables	Government of Argentina
2011-15	2840.19.00 (Turkey)	Disodium tetraborate (refined borax) except anhydrous	Istanbul Mineral & Metals Exporters Association
2011-16	2921.19.60 (Philippines)	Other acyclic monoamines and their derivatives	Government of Philippines
2011-17	2922.41.00 (Brazil)	Lysine and its esters and salts thereof	National Association of Brazilian Feed Industries
2011-18	3307.41.00 (India)	"Agarbatti" and other odoriferous preparations which operate by burning, to perfume or deodorize rooms or used during religious rites	Government of India
2011-19	4015.19.10 (Thailand)	Seamless gloves of vulcanized rubber other than hard rubber, other than surgical or medical gloves	Government of Thailand
2011-20	7606.12.30 (Indonesia)	Aluminum alloy, plates/sheets/strip, w/thick. o/0.2mm, rectangular (incl. sq), not clad	Government of Indonesia, Empire Resources of NJ, Galex, Inc. and Ta Chen International
2011-21	8415.90.80 (Thailand)	Parts for air conditioning machines, nesi	Mitsubishi Electric
2011-22	8708.30.50 (India)	Pts. & access. of mtr. vehicles of 8701, nesoi, and 8702-8705, brakes and servo-brakes & pts thereof	Brake Parts Inc. and EEPC India

APPENDIX B
Commission's *Federal Register* Notice of Institution

to the Commission should contact the Office of the Secretary at (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of Unfair Import Investigations, U.S. International Trade Commission, telephone (202) 205–2560.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 CFR 210.10 (2011).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on February 21, 2012, *ordered that*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine whether there is a violation of subsection (a)(1)(B) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain electronic devices for capturing and transmitting images and components thereof by reason of infringement of one or more of claims 5 and 7 of the '161 patent; claims 1 and 7–11 of the '084 patent; claims 1–6, 9–13, 16, 17, 19, and 20 of the '605 patent; claims 11, 12, and 15–18 of the '391 patent; and claims 15 and 23–27 of the '218 patent; and whether an industry in the United States exists as required by subsections (a)(2) and (3) of section 337;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is:

Eastman Kodak Company, 343 State Street Rochester, NY 14650.

(b) The respondent is the following entity alleged to be in violation of section 337, and is the party upon which the complaint is to be served:

Apple Inc., 1 Infinite Loop, Cupertino, CA 95014;

High Tech Computer Corp. a/k/a HTC Corp., 23 Xinghua Road, Taoyuan 330, Taiwan;

HTC America, Inc., 13920 SE Eastgate Way, Suite 400, Bellevue, WA 98005;

Exedea, Inc., 5950 Corporate Drive, Houston, TX 77036;

(c) The Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street SW., Suite 401, Washington, DC 20436; and

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 CFR 210.13. Pursuant to 19 CFR 201.16(d)–(e) and 210.13(a), such responses will be considered by the Commission if received not later than 20 days after the date of service by the Commission of the complaint and the notice of investigation. Extensions of time for submitting responses to the complaint and the notice of investigation will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter an initial determination and a final determination containing such findings, and may result in the issuance of an exclusion order or a cease and desist order or both directed against the respondent.

By order of the Commission.
Issued: February 22, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–4497 Filed 2–24–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–529]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2011 Review of Additions and Competitive Need Limitation Waivers Institution of Investigation and Scheduling of Hearing

AGENCY: United States International Trade Commission.

ACTION: Notice of institution of investigation and scheduling of public hearing.

SUMMARY: Following receipt of a request on February 14, 2012, from the United States Trade Representative (USTR), the U.S. International Trade Commission (Commission) instituted investigation No. 332–529, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2011 Review of Additions and Competitive Need Limitation Waivers,* for the purpose of providing advice as to the probable economic effect of the addition of certain products to the list of items eligible for duty-free treatment under the U.S. GSP program and providing advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limitations under the program for certain countries and articles.

DATES:

March 12, 2012: Deadline for filing a request to appear at the public hearing.

March 15, 2012: Deadline for filing pre-hearing briefs and statements.

March 30, 2012: Public hearing.

April 4, 2012: Deadline for filing post-hearing briefs and statements.

April 4, 2012: Deadline for filing all other written submissions.

May 14, 2012: Transmittal of Commission report to the USTR.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Vincent Honnold, Project Leader, Office of Industries (202–205–3314 or *vincent.honnold@usitc.gov*), Michael McConnell, Deputy Project Leader, Office of Industries (202–205–3443 or *michael.mcconnell@usitc.gov*), or Cynthia B. Foreso, Technical Advisor, Office of Industries (202–205–3348 or *cynthia.foreso@usitc.gov*). For information on the legal aspects of these investigations, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov).* Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who

will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: The USTR has requested three types of advice. First, in accordance with sections 503(a)(1)(A), 503(e), and 131(a) of the Trade Act of 1974, and pursuant to the authority of the President delegated to the USTR by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, and pursuant to section 332(g) of the Tariff Act of 1930, the USTR has requested, and the Commission will provide, advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers of the elimination of U.S. import duties on the following article for all beneficiary developing countries under the GSP program: Sacks and bags (including cones) for the conveyance or packing of goods, of polymers of ethylene, provided for in HTS subheading 3923.21.00.

Second, in accordance with sections 503(a)(1)(B), 503(e), and 131(a) of the Trade Act of 1974, and pursuant to the authority of the President delegated to the USTR by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, and pursuant to section 332(g) of the Tariff Act of 1930, the USTR has requested, and the Commission will provide, advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers of the elimination of U.S. import duties on the following HTS subheadings and articles for least-developed beneficiary developing countries under the GSP program: HTS subheadings 5201.00.18 (Cotton, not carded or combed, having a staple length under 28.575 mm (1⅛ inches), n/harsh or rough, nesoi), 5201.00.22 (Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, described in gen. note 15), 5201.00.24 (Cotton, carded or combed, harsh or rough, staple length 29.36875 mm or more but n/o 34.925 mm, white in color, quota described in chapter 52 add US note 6), 5201.00.28 (Cotton, not carded or combed, harsh or rough, staple length of 29.36875 mm or more but under 34.925 mm & white in color, nesoi), 5201.00.34 (Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, other, quota described in chapter 52 add'l US note 7), 5201.00.38 (Cotton, not carded or combed, staple length of 28.575 mm or more but under 34.925 mm, nesoi), 5202.91.00 (Cotton garnetted stock), 5202.99.30 (Cotton card strips made from cotton waste having staple length under 30.1625 mm & lap, sliver & roving waste, nesoi), 5203.00.05 (Cotton fibers, carded or combed, of cotton fiber processed but not spun, described in gen. note 15), 5203.00.10 (Cotton fibers, carded or combed, of cotton fiber processed but not spun, quota described in chapter 52 add'l US note 10), 5203.00.30 (Cotton fibers, carded or combed, of cotton fiber processed, but not spun, nesoi), and 5203.00.50 (Cotton carded or combed, excluding fibers of cotton processed but not spun).

Third, under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, and in accordance with section 503(d)(1)(A) of the Trade Act of 1974, the USTR has requested, and the Commission will provide, advice on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limitations specified in section 503(c)(2)(A) of the Trade Act of 1974 for the following HTS subheadings and countries: 1602.50.20 (Prepared or preserved beef in airtight containers, other than corned beef, not containing cereals or vegetables) from Argentina; 2840.19.00 (Disodium tetraborate (refined borax) except anhydrous) from Turkey; 2921.19.60 (Other acyclic monoamines and their derivatives) from Philippines; 2922.41.00 (Lysine and its esters and salts thereof) from Brazil; 3307.41.00 (''Agarbatti'' and other odoriferous preparations which operate by burning, to perfume or deodorize rooms or used during religious rites) from India; 4015.19.10 (Seamless gloves of vulcanized rubber other than hard rubber, other than surgical or medical gloves) from Thailand; 7606.12.30 (Aluminum alloy, plates/sheets/strip, w/thick. o/0.2mm, rectangular (inc. sq), not clad) from Indonesia; 8415.90.80 (Parts for air conditioning machines, nesi) from Thailand; and 8708.30.50 (Pts. & access. of mtr. vehicles of 8701, nesoi, and 8702–8705, brakes and servo-brakes & pts thereof) from India. As requested, the Commission will also provide advice with respect to whether like or directly competitive products were being produced in the United States on January 1, 1995, and will provide advice as to the probable economic effect on total U.S. imports, as well as on consumers, of the requested waivers. For purposes of the competitive need limit in section 503(c)(2)(A)(i)(I) of the Trade Act of 1974, the Commission will use, as requested, the dollar value limit of $150,000,000.

To the extent possible, the Commission will provide its probable economic effect advice and statistics and other relevant information or advice separately and individually for each U.S. Harmonized Tariff Schedule subheading subject to this request. As requested, the Commission will provide its advice by May 14, 2012.

The USTR indicated that the portions of the Commission's report and working papers that contain the Commission's advice and assessment will be classified on the basis that they concern matters relating to the national security. In addition, the USTR said that he considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on March 30, 2012. Requests to appear at the public hearing should be filed with the Secretary, no later than 5:15 p.m., March 12, 2012, in accordance with the requirements in the ''Submissions'' section below. All pre-hearing briefs and statements should be filed not later than 5:15 p.m., March 15, 2012; and all post-hearing briefs and statements should be filed not later than 5:15 p.m., April 4, 2012. In the event that, as of the close of business on March 12, 2012, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or nonparticipant may call the Secretary to the Commission (202–205–2000) after March 12, 2012, for information concerning whether the hearing will be held.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., April 4, 2012. All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed, in which the confidential information must be deleted (see the following

paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include in the report it sends to the President and the USTR some or all of the confidential business information it receives in this investigation. The USTR has asked that the Commission make available a public version of its report shortly after its sends its report to the President and the USTR, with any classified or confidential business information deleted. The confidential business information received in this investigation and used in the preparation of the report will not be published in the public version of the report in such manner as would reveal the operations of the firm supplying the information.

By order of the Commission.
Issued: February 22, 2012.

James R. Holbein,

Secretary to the Commission.

[FR Doc. 2012–4496 Filed 2–24–12; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–739]

Certain Ground Fault Circuit Interrupters and Products Containing Same, Investigations: Terminations, Modifications and Rulings

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review the final initial determination issued by the presiding administrative law judge in the above captioned investigation on December 20, 2011, finding no violation of section 337 (19 U.S.C. 1337). The Commission requests briefing from the parties on certain issues under review and from the parties and the public on remedy, the public interest, and bonding, as indicated in this notice.

FOR FURTHER INFORMATION CONTACT: Clark S. Cheney, Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2661. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on October 8, 2010, based on a complaint and an amended complaint filed by Leviton Manufacturing Co., of Melville, New York (''Leviton''). 75 FR 62420 (Oct. 8, 2010). The complaint and amended complaint alleged violations of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ground fault circuit interrupters and products containing the same by reason of infringement of claims 1–7, 9–11, 13–17, 23–26, and 32–36 of U.S. Patent No. 7,463,124 (''the '124 patent''); claims 1–11, 13–28, 30–59, 61–64, and 74–83 of U.S. Patent No. 7,737,809 (''the '809 patent''); and claims 1–4 and 8 of U.S. Patent No. 7,764,151 (''the '151 patent''). The Notice of Investigation named numerous respondents, and during the course of the investigation several of the respondents were found to be in default or were terminated due settlement agreements, consent orders, or withdrawn allegations. Seven respondents remain in the investigation, consisting of Zhejiang Trimone Electric Science & Technology Co. Ltd., of Zhejiang, China (''Trimone''); Fujian Hongan Electric Co, Ltd., of Fujian, China (''Hongan''); TDE, Inc., of Bellevue, Washington (''TDE''); Shanghai ELE Manufacturing Corp., of Shanghai, China (''ELE''); Orbit Industries, Inc., of Los Angeles, California (''Orbit''); American Electric Depot Inc., of Fresh Meadows, New York (''AED''); and Shanghai Jia AO Electrical Co. of Shanghai, China (''Shanghai Jia'').

On December 20, 2011, the presiding administrative law judge (''ALJ'') issued his final initial determination (''ID'') in this investigation finding that the complainant had not sufficiently shown that a domestic industry exists with respect to the three asserted patents and/or articles protected by those patents. Accordingly, the ALJ found no violation of section 337.

On January 6, 2012, the complainant, the Commission investigative attorney, and a group of respondents consisting of Trimone, Hongan, and TDE filed petitions for review of the ID. Respondents ELE, Orbit, AED, and Shanghai Jia have not filed petitions for review of the ID.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the final ID in its entirety.

The parties are requested to brief their positions on only the following issues, with reference to the applicable law and the evidentiary record:

1. Whether the complainant has carried its burden to show the existence of a domestic industry under 19 U.S.C. 1337(a)(3).

2. Whether the ID implicitly applied a different claim construction when analyzing the validity of the '121 and '151 patents than was applied when analyzing infringement of those patents.

3. Whether the ID relied upon unclaimed features of the disclosed inventions when analyzing the validity of the '121 and '151 patents.

4. Whether the ID considered all of respondents' arguments concerning the validity of the '809 patent.

5. Whether the following asserted patent claims (a) have been properly construed, (b) protect articles for which there is an industry in the United States, (c) are infringed by the accused articles, and (d) have not been shown to be invalid: Claim 7 of the '124 patent, claim 4 of the '151 patent, and claims 11 and 43 of the '809 patent.

APPENDIX C
Calendar of Witnesses for the March 30, 2012 Hearing

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject: Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2011 Review of Additions and Competitive Need Limitation Waivers

Inv. No.: 332-529

Date and Time: March 30, 2012 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

ORGANIZATION AND WITNESS:

Certain Polyethylene Bags (Reclosable Pinch-Seal Bags) Addition

Crowell & Moring LLP
Washington, D.C.
on behalf of

SC Johnson & Son, Inc. -- *Petitioner*

Stanley N. Manning, Interim Director, Strategy and Growth, SC Johnson & Sons, Inc.

John Brew)
) – OF COUNSEL
David C. Wolff)

Honigman Miller Schwartz and Cohn LLP
Detroit, MI
on behalf of

Webster Industries ("Webster") -- *Opposed to the Petition*

Arnold Shainker, Senior Vice President of Marketing and Sales, Webster

David Ettinger) – OF COUNSEL

ORGANIZATION AND WITNESS:

Refined Borax (Disodium Tetraborate)
CNL Waiver for Turkey

Law Offices of Gary N. Horlick
Washington, D.C.
on behalf of

U.S. Borax, Inc. -- *Opposed to the Petition*

Alison Kutler, Vice President, External Affairs,
Rio Tinto Group

Bruce Malashevich, President, Economic Consulting
Services, LLC

Gary N. Horlick) – OF COUNSEL

Agarbatti and Other Burned Incense
CNL Waiver for India

Export Promotion Council for Handicrafts -- *Support of the Petition*
New Dehli, India

Shri Arjun N. Ranga, Representative, All India Agarbatti
Manufacturers Association (AIAMA)

ORGANIZATION AND WITNESS:

Aluminum Alloy Plate, Sheet & Strip
CNL Waiver for Indonesia

Hogan Lovells US LLP
Washington, D.C.
on behalf of

Empire Resources, Inc. ("Empire Resources") -- *Petitioner*

Nathan Kahn, Chief Executive Officer and President, Empire Resources

Welly Muliawan, Director, PT. Alumindo Light Metal Industry, Tbk., Surabaya, Indonesia

Soefianto Djunaedi, Marketing Director (Export), Alumindo Light Metal Industry, Tbk., Surabaya, Indonesia

Warren H. Maruyama) – OF COUNSEL

Grunfeld, Desiderio, Lebowitz, Silverman & Klestadt LLP

New York, NY
on behalf of

Galex, Inc. -- *Petitioner*

Bernard Neuhaus, Vice President, Galax, Inc.

Joseph M. Spraragen) – OF COUNSEL

Certain Air Conditioner Parts
CNL Waiver for Thailand

Arent Fox LLP
Washington, D.C.
on behalf of

Mitsubishi Electric & Electronics USA, Inc. ("MEUS") -- *Petitioner*

Paul Doppel, Director of Factory Liaison & Government Affairs, HVAC Division, MEUS

Mark Lunn) – OF COUNSEL

-END-

APPENDIX D
Model for Evaluating the Probable Economic Effects of Changes in GSP Status

MODEL FOR EVALUATING THE
PROBABLE ECONOMIC EFFECTS OF CHANGES IN GSP STATUS

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