

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Announcing the Availability of Import Statistics Relating to Competitive Need Limitations (CNLs) and Inviting Public Comment on CNL Waivers Subject to Potential Revocation Based on New Statutory Thresholds, Possible De Minimis Waivers, and Product Redesignations for the 2009 Annual Review

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

ACTION: Notice and solicitation of comments.

SUMMARY: This notice announces the availability of full 2009 calendar year import statistics relating to competitive need limitations (CNLs) under the Generalized System of Preferences (GSP) program. The Office of the United States Trade Representative (USTR) will accept public comments submitted by 5 p.m., Thursday, March 25, 2010, via <http://www.regulations.gov> regarding three issues: (1) Potential revocation of CNL waivers that meet the statutory thresholds set forth by section 503(d)(4)(B)(ii) of the Trade Act of 1974 (19 U.S.C. 2463(d)(4)(B)(ii)), as amended by Public Law 109-432; (2) possible *de minimis* CNL waivers; and (3) possible redesignations of articles currently not eligible for GSP benefits because they previously exceeded the CNL thresholds.

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

SUPPLEMENTARY INFORMATION:

I. Competitive Need Limitations

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

Section 503(c)(2)(A) of the 1974 Act sets out the two CNLs. When The President determines that a BDC exported to the United States during a calendar year either (1) a quantity of a GSP-eligible article having a value in

excess of the applicable amount for that year (\$140 million for 2009), or (2) a quantity of a GSP-eligible article having a value equal to or greater than 50 percent of the value of total U.S. imports of the article from all countries (the "50 percent" CNL), the President must terminate GSP duty-free treatment for that article from that BDC by no later than July 1 of the next calendar year.

De minimis waivers: Under section 503(c)(2)(F) of the 1974 Act, the President may waive the 50 percent CNL with respect to an eligible article imported from a BDC if the value of total imports of that article from all countries during the calendar year did not exceed the applicable *de minimis* amount for that year (\$19.5 million for 2009).

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

CNL waiver revocation: Under Section 503(d)(5) of the 1974 Act, a CNL waiver remains in effect until the President determines that it is no longer warranted due to changed circumstances. Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432, also provides that, "[n]ot later than July 1 of each year, the President should revoke any waiver that has then been in effect with respect to an article for 5 years or more if the beneficiary developing country has exported to the United States (directly or indirectly) during the preceding calendar year a quantity of the article—(I) having an appraised value in excess of 1.5 times the applicable amount set forth in subsection (c)(2)(A)(ii) for that calendar year [\$210 million in 2009]; or (II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year."

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

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2010, unless granted a waiver by the President. Any CNL-based exclusions, CNL waiver revocations, and decisions with respect to *de minimis* waivers and redesignations will be based on full 2009 calendar year import data.

III. 2009 Import Statistics

In order to provide notice of articles that have exceeded the CNLs for 2009 and to afford an opportunity for comment regarding (1) the potential revocation of waivers subject to the CNL waiver thresholds for 2009, (2) potential *de minimis* waivers, and (3) redesignations, the lists of the articles are available as supporting material within Docket USTR-2010-0009 or at: <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/current-review-1>, under "2009 GSP Review, Full-Year 2009 Import Statistics Relating to Competitive Need Limitations (CNLs)." Full 2009 calendar year data for individual tariff subheadings may also be viewed on the Web site of the U.S. International Trade Commission at <http://dataweb.usitc.gov>.

The lists available on the USTR Web site contain, for each article, the Harmonized Tariff Schedule of the United States (HTSUS) subheading and BDC country of origin, the value of imports of the article for the 2009 calendar year, and the percentage of total imports of that article from all countries. The annotations on the lists indicate, among other things, the status of GSP eligibility.

The computer-generated lists published on the USTR Web site are for informational purposes only. They may not include all articles to which the GSP CNLs may apply. All determinations and decisions regarding the CNLs of the GSP program will be based on full 2009 calendar year import data with respect to each GSP-eligible article. Each interested party is advised to conduct its own review of 2009 import data with respect to the possible application of the GSP CNL provisions.

List I on the USTR Web site shows: (a) Articles from BDCs that became ineligible for GSP treatment on or before July 1, 2009; and (b) GSP-eligible articles from BDCs that exceeded a CNL by having been exported in excess of \$140 million, or in a quantity equal to or greater than 50 percent of the total U.S. import value, in 2009. Petitions to grant CNL waivers for those articles that received GSP benefits during 2009 but stand to lose GSP duty-free treatment on July 1, 2010, must have been previously submitted in the 2009 GSP Annual Review.

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

petitions, and public comments (including comments in support of or in opposition to *de minimis* waivers) are invited in accordance with the Requirements for Submissions below.

List III shows GSP-eligible articles from certain BDCs that are currently not receiving GSP duty-free treatment, but that may be considered for GSP redesignation based on 2009 trade data and consideration of certain statutory factors, as set forth above. Recommendations to the President on redesignations are normally made as part of the GSP annual review process, and public comments (including comments in support of or in opposition to redesignations) are invited in accordance with the Requirements for Submissions below.

List IV shows articles subject to the new CNL waiver thresholds of section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432. Recommendations to the President on revocation of these waivers will be made as part of the 2009 GSP annual review process, and public comments (including comments in support of or in opposition to revocations of CNL waivers) are invited in accordance with the Requirements for Submissions below.

IV. Public Comments

Requirements for Submissions

Submissions in response to this notice must be submitted electronically by the March 25, 2010 deadline listed above using <http://www.regulations.gov>, docket number USTR-2010-0009. Instructions for submitting business confidential versions are provided below. Hand-delivered and faxed submissions will not be accepted. Submissions must be submitted in English to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee, by the applicable deadlines set forth in this notice.

To make a submission using <http://www.regulations.gov>, enter docket number USTR-2010-0009 on the homepage and click "Search". The site will provide a search-results page listing all documents associated with this docket. Locate the reference to this notice by selecting "Notices" under "Document Type". Locate the reference to this notice by selecting "Notices" under "Document Type" on the left side of the search-results page, and click on the link entitled "Submit a Comment". (For further information on using the <http://www.regulations.gov> Web site, please consult the resources provided on the Web site by clicking "How to Use

This Site" on the left side of the home page.)

The <http://www.regulations.gov> Web site offers the option of providing comments by filling in a "Type Comment and Upload File" field or by attaching a document. Given the detailed nature of the information sought by the GSP subcommittee, USTR prefers comments to be provided in an attached document. If a document is attached, it is sufficient to type "See attached" in the "Type Comment and Upload File" field.

Comments must be in English, with the total submission not to exceed 30 single-spaced standard letter-size pages in 12-point type, including attachments. Any data attachments to the submission should be included in the same file as the submission itself, and not as separate files. Any person or party making a submission is strongly advised to review the GSP regulations and GSP Guidebook (available at: <http://www.ustr.gov/trade-topics/trade-development/preference-programs/generalized-system-preference-gsp/gsp-program-inf>).

V. Business Confidential Comments

A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the submitter. Confidential business information must be clearly designated as such, the submission must be marked "BUSINESS CONFIDENTIAL" at the top and bottom of the cover page and each succeeding page, and the submission should indicate, via brackets, the specific information that is confidential. Additionally, "Business Confidential" should be included in the "Type Comment & Upload File" field. Anyone submitting a comment containing business confidential information must also submit as a separate submission a non-confidential version of the confidential submission, indicating where confidential information has been redacted. The non-confidential summary will be placed in the docket and open to public inspection.

Public versions of all documents relating to this review will be available for public viewing at <http://www.regulations.gov>, docket number USTR-2010-0009, upon completion of processing and no later than

approximately two weeks after the due date.

Mary Estelle Ryckman,

Assistant U.S. Trade Representative for Trade and Development, Office of the U.S. Trade Representative.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart B (Formerly Subpart Q) During the Week Ending February 6, 2010

The following applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits were filed under Subpart B (formerly Subpart Q) of the Department of Transportation's Procedural Regulations (*See* 14 CFR 301.201 *et seq.*).

The due date for Answers, Conforming Applications, or Motions to Modify Scope are set forth below for each application. Following the Answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Docket Number: DOT-OST-2010-0029.

Date Filed: February 2, 2010.

Due Date for Answers, Conforming Applications, or Motion to Modify Scope: February 23, 2010.

Description: Application of Perimeter Aviation LP as represented by its general partner Perimeter Aviation GP Inc. c/o/b Perimeter Aviation requesting an exemption and a foreign air carrier permit to engage in charter foreign air transportation of persons, property and mail: (1) Between any points in Canada and any point or points in the United States; (2) between any point or points in the United States and any point or points in a third country or countries, provided that, except with respect to cargo charters, such service constitutes part of a continuous operation, with or without a change of aircraft, that includes service to Canada for the purpose of carrying local traffic between