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## **OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE**

### **2015/2016 Generalized System of Preferences (GSP) Annual Product Review: Inviting Public Comments on Possible Actions Related to Competitive Need Limitations**

**AGENCY:** Office of the United States Trade Representative

**ACTION:** Notice and solicitation of comments.

**SUMMARY:** This notice announces the availability of full 2015 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 April 1, 2016, regarding: (1) possible *de minimis* CNL waivers; and (2) possible redesignations of articles currently not eligible for GSP benefits because they previously exceeded the CNL thresholds. This notice also announces the withdrawal by the petitioners of certain previously accepted CNL waiver petitions.

**FOR FURTHER INFORMATION CONTACT:** Aimee Larsen, Director for GSP, Office of the United States Trade Representative, 600 17th Street NW, Washington DC 20508. The telephone number is (202) 395-2974 and the e-mail address is [Aimee\\_B\\_Larsen@ustr.eop.gov](mailto:Aimee_B_Larsen@ustr.eop.gov).

**DATES:** Public comments are due by 5:00 p.m., Friday, April 1, 2016.

#### **SUPPLEMENTARY INFORMATION:**

##### **I. Statutory Provisions Related to CNLs**

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”).

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 (\$170 million for 2015), 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, unless a waiver is granted. (*Note*—as announced in a November 17, 2015, Federal Register notice (FRN), petitions for CNL waivers are being considered under a separate timeline than that of the actions on CNLs set forth in this FRN).

*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 (\$22.5 million for 2015).

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

*CNL waiver revocation:* Under Section 503(d)(5) of the 1974 Act, a CNL waiver remains in effect until the President determines that it is no longer warranted due to changed circumstances. Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432, also provides that, “[n]ot later than July 1 of each year, the President should revoke any waiver

that has then been in effect with respect to an article for five 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 (\$255 million in 2015); or (II) exceeding 75 percent of the appraised value of the total imports of that article into the United States during that calendar year."

Exclusions from GSP duty-free treatment where CNLs have been exceeded will be effective July 1, 2016, 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 2015 calendar year import data.

## **II. 2015 Import Statistics**

In order to provide notice of articles that have exceeded the CNLs for 2015 and to afford an opportunity for comment regarding (1) potential *de minimis* waivers and (2) potential redesignations for 2015, USTR has posted product lists on the USTR website at <https://ustr.gov/issue-areas/preference-programs/generalized-system-preferences-gsp/current-reviews/gsp-20152016> under the title "2015 Import Statistics Relating to Competitive Need Limitations for the Generalized System of Preferences." These lists can also be found at [www.regulations.gov](http://www.regulations.gov) in Docket Number USTR-2015-0013. There were no articles that were subject to CNL waiver revocation for 2015 based on the provisions of Section 503(d)(4)(B)(ii) of the 1974 Act, as amended by Public Law 109-432. Full 2015 calendar year data for individual tariff subheadings may also be viewed on the website of the U.S. International Trade Commission at <http://dataweb.usitc.gov>.

The lists available on the USTR website 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 2015 calendar year, and the percentage of total U.S. imports of that article from all countries.

The lists published on the USTR website 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 2015 calendar year import data with respect to each GSP-eligible article. Each interested party is advised to conduct its own review of 2015 import data with respect to the possible application of the GSP CNL provisions.

List I on the USTR Web site shows GSP-eligible articles from BDCs that exceeded a CNL by having been imported in excess of \$170 million, or in a quantity equal to or greater than 50 percent of the total U.S. import value, in 2015. These products will be removed from eligibility for GSP for the subject countries on July 1, 2016, unless the President grants a waiver for the product for the subject country in response to a petition filed by an interested party. Such petitions for CNL waivers must have been previously submitted in the 2015/2016 GSP Annual Review. (*See* 80 FR 50376 and 80 FR 71913.) The last column in List I shows those products for which petitions have been accepted and are now under 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 the filing of a petition. 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

2015 trade data and consideration of certain statutory factors. Recommendations to the President on *de minimis* waivers and redesignations will be made as part of the GSP annual review process, and public comments (including comments in support of or in opposition to *de minimis* waivers and redesignations) are invited in accordance with the Requirements for Submissions below.

### **III. Public Comments**

#### **Requirements for Submissions**

Written comments submitted in response to this notice must be submitted electronically by 5:00 p.m., Friday, April 1, 2016. All submissions must be made in English and submitted electronically via <http://www.regulations.gov>, using docket number USTR-2015-0013. Hand-delivered submissions will not be accepted.

All submissions for the GSP Annual Review must conform to the GSP regulations set forth at 15 CFR part 2007, except as modified below. These regulations are available on the USTR website at <https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp/gsp-program-inf>. Any person or party making a submission is strongly advised to review the GSP regulations as well as the GSP Guidebook, which is available at the same link.

To make a submission using <http://www.regulations.gov>, enter docket number USTR-2015-0013 in the “Search for” field on the home page and click “Search.” The site will provide a search-results page listing all documents associated with this docket. Find a reference to this notice by selecting “Notice” under “Document Type” in the “Filter Results by” section on the left side of the screen and click on the link entitled “Comment Now.” The <http://www.regulations.gov> website offers the option of providing comments by filling in a

“Type Comment” field or by attaching a document using the “Upload file(s)” field. The Subcommittee prefers that submissions be provided in an attached document and, in such cases, that parties note “See attached” in the “Type Comment” field on the online submission form.

At the beginning of the submission, or on the first page (if an attachment), please note that the submission is in response to this Federal Register notice and indicate the specific product(s) (including the eight-digit HTSUS subheading) that is the subject of the comment and on which of the relevant lists described above (*e.g.*, List I) it appears. Submissions should not 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.

Each submitter will receive a submission tracking number upon completion of the submissions procedure at <http://www.regulations.gov>. The tracking number will be the submitter’s confirmation that the submission was received into <http://www.regulations.gov>. The confirmation should be kept for the submitter’s records. USTR is not responsible for any delays in a submission due to technical difficulties, nor is it able to provide any technical assistance for the <http://www.regulations.gov> website. Documents not submitted in accordance with these instructions may not be considered in this review. If an interested party is unable to provide submissions as requested, please contact the GSP program at USTR to arrange for an alternative method of transmission.

### **Business Confidential Petitions**

An interested party requesting that information contained in a submission be treated as business confidential 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” must be included in the “Type Comment” field. For any submission containing business confidential information, a non-confidential version must be submitted separately (i.e., not as part of the same submission with the confidential version), indicating where confidential information has been redacted. The non-confidential version will be placed in the docket and open to public inspection.

#### **Public Viewing of Review Submissions**

Submissions in response to this notice, except for information granted “business confidential” status under 15 CFR part 2003.6, will be available for public viewing pursuant to 15 CFR part 2007.6 at <http://www.regulations.gov> upon completion of processing, usually within two weeks of the relevant due date or date of the submission. Public versions of all documents relating to the 2015/2016 Annual Product Review will be made available for public viewing in docket USTR–2015–0013 at [www.regulations.gov](http://www.regulations.gov) upon completion of processing.

#### **IV. Withdrawal of Certain CNL Waiver Petitions**

In a January 11, 2016 Federal Register notice (see 81 FR 1275), USTR announced the acceptance of CNL waiver petitions for the 2015/2016 GSP Annual Review. Following the release of full 2015 calendar year trade data, the following petitioners have withdrawn their CNL waiver petition from the 2015/2016 GSP Annual Review because the product imported from the subject GSP beneficiary country did not surpass the CNL thresholds for 2015:

- CamelBak Products LLC: HTS 4202.92.04 from the Philippines
- Government of Tunisia: HTS 1509.10.40 from Tunisia

- Government of Ukraine: HTS 2804.29.00 from Ukraine
- Lenox Corporation: HTS 6911.10.37 from Indonesia

An updated list of the CNL waiver petitions being considered in the 2015/2016 review can be found on the USTR website at <https://ustr.gov/issue-areas/preference-programs/generalized-system-preferences-gsp/current-reviews/gsp-20152016> under the title “Product and CNL Waiver Petitions Accepted for the 2015/2016 GSP Annual Review.” This list can also be found at [www.regulations.gov](http://www.regulations.gov) in Docket Number USTR-2015-0013.

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William D. Jackson,

Deputy Assistant U.S. Trade Representative for the Generalized System of Preferences,  
Office of the U.S. Trade Representative.

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