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Generalized System of Preferences (GSP): Overview and Issues for Congress

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Summary

The U.S. Generalized System of Preferences (GSP) program provides nonreciprocal, duty-free tariff treatment to certain products imported from designated beneficiary developing countries (BDCs). The United States, the European Union, and other developed countries have implemented similar programs since the 1970s. Congress first authorized the U.S. program in Title V of the Trade Act of 1974, and most recently extended the GSP program in Division M, Title V of the Consolidated Appropriations Act, 2018 (P.L. 115-141). This Act, extended the GSP program until December 31, 2020, as well as retroactively renewing it for the time period between December 31, 2017 (the previous expiration date) and April 22, 2018.

Currently, 120 developing countries and territories are GSP beneficiary developing countries (BDCs). The program provides duty-free entry into the United States for over 3,500 products (based on 8-digit U.S. Harmonized Tariff Schedule tariff lines) from BDCs, and duty-free status to an additional 1,500 products from 44 GSP beneficiaries additionally designated as least-developed beneficiary developing countries (LDBDCs). In 2018, products valued at about $23.8 billion (imports for consumption) entered the United States duty-free under the program, out of $238.4 billion worth of total imports from GSP-eligible countries. Total U.S. imports from all countries amounted to about $2.6 trillion in 2018.

In recent years, Members of Congress have held a range of views on whether or not to continue to include emerging market developing countries (e.g., India, Brazil, Turkey) as beneficiaries, or to limit the program to least-developed countries. Duty-free access for products deemed "import sensitive" has caused some controversy, as well as concerns about certain beneficiaries' compliance with GSP eligibility requirements based on alleged violations of worker rights, failure to protect intellectual property, and other practices. In May 2019, President Trump terminated Turkey's GSP designation based on its improved level of economic development. The President also terminated India's GSP eligibility in June 2019 on the basis of market access issues.

GSP is one of several trade preference programs through which the United States seeks to help developing countries expand their economies. Other U.S. trade preference programs are regionally focused, including the African Growth and Opportunity Act (AGOA) and the Caribbean Basin Initiative (CBI, includes preference programs for Haiti). U.S. implementation of GSP requires that developing countries meet certain eligibility criteria, such as providing the U.S. with adequate market access, taking steps to maintain internationally recognized worker rights and protect intellectual property rights, among other things. GSP rules of origin require that at least 35% of the appraised value of the product be the "growth, product, or manufacture" of the BDC. Certain "import-sensitive" products (e.g., most textiles and apparel) are specifically excluded, and limits are placed on the quantity or value of any one product imported from any one country under the program (except for products from LDBDCs and AGOA countries). GSP country and product eligibility are also subject to annual review.

This report examines, first, recent legislative developments, along with a brief history, economic rationale, and legal background leading to the establishment of the GSP. Second, the report describes U.S. GSP implementation. Third, the report briefly analyzes the U.S. program's effectiveness and stakeholders' views, and discusses possible options for Congress.

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Introduction

The Generalized System of Preferences (GSP) provides nonreciprocal, duty-free tariff treatment to certain products imported into the United States from designated beneficiary developing countries (BDCs). The United States, the European Union (EU), and other developed countries have implemented similar programs since the 1970s in order to promote economic growth in developing nations.

Currently, 120 developing countries and territories are GSP beneficiary developing countries (BDCs). The GSP program provides duty-free entry into the United States for over 3,500 products (based on 8-digit U.S. Harmonized Tariff Schedule tariff lines) from BDCs, and duty-free status to an additional 1,500 products from 45 GSP beneficiaries additionally designated as "least-developed beneficiary developing countries" (LDBDCs). In 2018, products valued at about $23.8 billion (imports for consumption) entered the United States duty-free under the program, out of $238.4 billion worth of total imports from GSP countries. Total U.S. imports from all countries (including GSP) amounted to about $2.6 trillion in 2018.

This report briefly summarizes recent GSP developments. It provides a brief history, economic rationale, legal background, and comparison of preferential trade programs worldwide and describes the U.S. implementation of the GSP program.

Latest Developments

On October 25, 2019 President Trump restored duty-free treatment for certain items from Ukraine after he determined that Ukrainian officials had made progress in providing adequate and effective protection of intellectual property rights.[1] On the same date, he suspended Thailand's GSP eligibility for certain products after he determined that Thailand is not taking steps to provide its workers with internationally recognized worker rights, effective 6 months after the announcement.[2]

On March 4, 2019, President Trump notified Congress of his intent to terminate the designation of India and Turkey as beneficiary developing countries under the GSP program. In India's case, the President determined that India has not assured the United States that it will provide equitable and reasonable market access.[3] In Turkey's case, the President determined that Turkey should no longer be designated a GSP beneficiary due to its level of economic development. The President stated that Turkey's economy has grown and diversified as indicated by increases in Gross National Income (GNI) per capita, declining poverty rates, and improved export diversification by both trading partners and product sectors.[4]

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[1] Presidential Proclamation to Modify Duty-Free Treatment under the Generalized System of Preferences, October 25, 2019, https://www.whitehouse.gov/presidential-actions/presidential-proclamation-modify-duty-free-treatment-generalized-system-preferences-purposes-2/

[2] Ibid.

[3] Donald J. Trump, President, *Letter to Congressional Leaders on the Generalized System of Preferences Program Benefits of India*, Daily Compilation of Presidential Documents (DCPD-201900123), March 4, 2019, https://www.govinfo.gov/content/pkg/DCPD-201900123/html/DCPD-201900123.htm.

[4] Donald J. Trump, President, *Letter to Congressional Leaders on the Generalized System of Preferences Benefits of Turkey*, Daily Compilation of Presidential Documents (DCPD-201900124), March 4, 2019, https://www.govinfo.gov/content/pkg/DCPD-201900124/html/DCPD-201900124.htm.

By law, the President must notify Congress at least 60 days prior to a GSP status change taking effect.[5] Congress could hold hearings, work with the U.S. Trade Representative (USTR) on alternative strategies, and/or enact legislation to modify or reverse the President's determination.[6]

In Proclamation 9887 of May 16, 2019, President Trump formally terminated Turkey's GSP designation,[7] and in Proclamation 9902 of May 31, 2019, he terminated GSP eligibility for India.[8]

Proposed Legislation

Three bills have been proposed in the 116th Congress related to GSP:

- S. 34 (Cruz, introduced January 8, 2019), the "Cambodia Trade Act of 2019," and related bill H.R. 1376 (Lowenthal, introduced February 26, 2019) of the same title, would require the President to review and report to Congress on the continuing participation of Cambodia in the GSP program.
- H.R. 4392 (Sherman, introduced September 28, 2019), the "Allowing for the Save Return of Rohingyas to Burma Act of 2019," would require the President to withdraw Burma's GSP status unless the President is able to certify to Congress that the Government of Burma allows for the "safe, voluntary, and dignified return" of Rohingya refugees, has taken steps to provide Burmese citizenship to the refugees, and has addressed the root causes of the crisis in Rakhine State.

History, Rationale, and Comparison of GSP Programs

The basic principle behind GSP trade programs worldwide is to provide developing countries with unilateral preferential market access to developed-country markets in order to spur economic growth in poorer countries. The preferential access is in the form of lower tariff rates (or as in the U.S. case, duty-free status) for certain products that are determined not to be "import sensitive" in the receiving country market. The program concept was first adopted internationally in 1968 by the United Nations Conference on Trade and Development (UNCTAD) at the UNCTAD II Conference.[9]

[5] 19 U.S.C. 2462(f)(2).

[6] CRS Insight IN11075, *Trump Administration's Proposed Removal of Generalized System of Preferences (GSP) Benefits for India and Turkey*, by Shayerah Ilias Akhtar and Vivian C. Jones. Several Members have weighed in on the decision to remove India, and GSP could possibly be reinstated based on the outcome of ongoing bilateral trade discussions between the U.S. and India.

[7] Proclamation 9887 of May 16, 2019, "To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974," 84 Federal Register 23425, May 20, 2019.

[8] Proclamation 9902 of May 31, 2019, "To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974, 84 Federal Register 26393, June 5, 2019.

[9] U.N. Conference on Trade and Development, "About GSP," at http://www.unctad.org. In addition to the United States and the European Union, eight other developed countries—Australia, Bulgaria, Canada, Japan, New Zealand, Norway, the Russian Federation, and Switzerland—currently have GSP programs.

Economic and Political Basis

The GSP concept and programs were established based on the premise that preferential tariff rates in developed country markets could promote export-driven industry growth in developing countries. It was believed that this, in turn, would help to free beneficiaries from heavy dependence on trade in primary products (e.g., raw materials), and help diversify their economies to promote stable growth.[10]

Some economists claim that GSP was established, in part, as a means of reconciling two widely divergent economic perspectives of trade equity that arose during early negotiations on the General Agreement on Tariffs and Trade (GATT).[11] Industrialized, developed nations argued that the most-favored-nation (MFN) principle[12] should be the fundamental and universal principle governing multilateral trade, while less-developed countries believed that equal treatment of economically unequal trading partners did not constitute equity in trade benefits. These countries called for "special and differential treatment" for developing countries. Economists assert that GSP schemes thus became one of the means of offering a form of special treatment that developing nations sought, while allaying the fears of developed countries that tariff "disarmament" might create serious disruptions among import-sensitive industries in their domestic markets.[13]

Due to differences in developed countries' economic structures and tariff programs—as well as differences in the types of domestic industries and products each country wanted to shield from greater foreign competition—it proved difficult to create one unified system of tariff concessions on additional products. Therefore, the GSP concept became a system of individual national schemes based on common goals and principles—each with a view toward providing developing countries with generally equivalent opportunities for export growth.[14] As a result, the preference-granting countries implemented various individual schemes of *temporary, generalized, nonreciprocal* preferences under which tariffs were lowered or eliminated on some imports from certain developing countries.

Although not specifically allowed or codified in the GATT, the programs of most GSP-granting countries place certain conditions on the nonreciprocal preferences by (1) excluding certain countries; (2) determining specific product coverage; (3) determining rules of origin governing the preference; (4) determining the duration of the scheme; (5) reducing preferential margins accruing to developing countries by continuing to lower or remove tariffs as a result of multilateral, bilateral, and regional negotiations; (6) preventing the concentration of benefits among a few countries; (7) including safeguard mechanisms or "escape" clauses to protect import-sensitive industries; and (8) placing caps on the volume of duty-free trade entering under their programs.[15]

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[10] OECD Secretary-General. *The Generalized System of Preferences: Review of the First Decade*. Organisation for Economic Co-operation and Development, 1983, p. 9 (hereinafter OECD GSP Review).

[11] Sapir, A. and L. Lundberg, "The U.S. Generalized System of Preferences and its Impacts," in R. Baldwin and A. Krueger (eds.) *The Structure and Evolution of Recent U.S. Trade Policy*, Chicago: The University of Chicago Press, 1984.

[12] The most-favored-nation principle means that countries must treat imports from other trading partners on the same basis as that given to other nations. Therefore, with certain exceptions (including GSP, regional trading arrangements, and free trade agreements), and tariffs are applied uniformly across countries, and reductions in tariffs to one country are provided also to others. The term "most-favored-nation" has been changed in U.S. law to "normal trade relations."

[13] OECD GSP Review, p. 11.

[14] Ibid., p. 10.

[15] David Wall, "Problems with Preferences," *International Affairs*, vol. 47, October 1971, p. 95.

GATT/World Trade Organization Framework

By its very nature as a trade preference, the GSP concept posed a problem under the GATT, because granting preferences to particular countries is inconsistent with the fundamental nondiscrimination obligation placed on GATT Parties (GATT Article I:1) to grant MFN tariff treatment to the products of all other GATT Parties. However, since preference programs were viewed as a means of transitioning developing countries to greater trade liberalization and economic development, GATT Parties accommodated them in a series of joint actions.

First, in 1965, the GATT Parties added Part IV to the General Agreement, an amendment that recognizes the special economic needs of developing countries and asserts the principle of nonreciprocity. Under this principle, developed countries may forego the receipt of reciprocal benefits for their negotiated commitments to reduce or eliminate tariffs and restrictions on the trade of less developed contracting parties.[16] Second, because of the underlying MFN issue, GATT Parties in 1971 adopted a waiver of Article I for GSP programs to allow developed contracting parties to accord more favorable tariff treatment to the products of developing countries for 10 years.[17] The GSP was described in the decision as a "system of generalized, non-reciprocal and non-discriminatory preferences beneficial to the developing countries."

Enabling Clause

At the end of the Tokyo Round of Multilateral Trade Negotiations in 1979, developing countries secured adoption of the so-called Enabling Clause, a permanent deviation from MFN by joint decision of the GATT Contracting Parties.[18] The clause states that notwithstanding GATT Article I, "contracting parties may accord differential and more favorable treatment to developing countries, without according such treatment to other contracting parties," and applies this exception to the following:

> (a) Preferential tariff treatment accorded by developed contracting parties to products originating in developing countries in accordance with the Generalized System of Preferences;
>
> (b) Differential and more favorable treatment with respect to the provisions of the General Agreement concerning non-tariff measures governed by the provisions of instruments multilaterally negotiated under the auspices of the GATT;
>
> (c) Regional or global arrangements entered into amongst less-developed contracting parties for the mutual reductions or elimination of tariffs and, in accordance with criteria or conditions which may be prescribed by the contracting parties for the mutual reduction or elimination of non-tariff measures, on products imported from one another;
>
> (d) Special treatment on the least developed among the developing countries in the context of any general or specific measures in favour of developing countries.

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[16] Edmond McGovern, International Trade Regulation ¶ 9.212 (updated 1999). Part IV is generally viewed as nonbinding, though some have argued otherwise with regard to certain of its provisions. *Id.*; John H. Jackson, William J. Davey & Alan O. Sykes, Jr., Legal Problems of International Economic Relations 1171 (4th ed. 2002).

[17] GATT, Generalized System of Preferences; Decision of 25 June 1971, L/3545 (June 28, 1971), available at http://www.wto.org/gatt_docs/English/SULPDF/90840258.pdf.

[18] GATT, Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries; Decision of 28 November 1979, L/4903 (December 3, 1979), available at http://www.wto.org/gatt_docs/English/SULPDF/90970166.pdf.

Additional Commitment to Least Developed Countries

When launching the Doha Development Agenda (DDA) negotiations in November 2001, World Trade Organization (WTO, successor to the GATT established in 1995) members committed themselves to provide "duty free/quota free" (DFQF) access to the products of least-developed countries in keeping with the shared objective of the international community as expressed in the Millennium Development Goals.[19] During DDA negotiations at the sixth WTO Ministerial Conference in Hong Kong in December 2005, developed country WTO members and "developing country members declaring themselves in a position to do so" agreed to deepen this commitment by providing DFQF access to at least 97% of products originating from least developed countries (LDCs) by 2008, "in a manner that ensures stability, security and predictability."[20] Many developed countries continued to implement these provisions despite the failure of the DDA. As of the WTO Nairobi Ministerial in October 2015, most developed countries granted either full or near full access to LDCs, and several developing countries had also taken concrete steps to provide duty-free access to products from LDCs.[21]

Comparison of International GSP Programs

Other developed countries besides the United States that implement GSP programs include Australia, Canada, the EU, Iceland, Japan, New Zealand, Norway, the Russian Federation, Switzerland, and Turkey.[22] One economist has referred to these programs as a nonhomogeneous set of national schemes sharing certain common characteristics.[23] Generally, each preference-granting country extends to qualifying developing countries (as determined by each benefactor) an exemption from duties (reduced tariffs or duty-free access) on most manufactured products and certain "non-sensitive" agricultural products. Product coverage and the type of preferential treatment offered varies widely.[24]

In the WTO, the developing country status of members is generally based on self-determination. For GSP, however, each preference-granting country establishes particular criteria and conditions for defining and identifying developing country beneficiaries. Consequently, the list of beneficiaries and exceptions may vary greatly among countries. If political or economic changes have taken place in a beneficiary country, it might be excluded from GSP programs in some countries but not in others. Some countries, including the United States, also reserve the right to exclude countries if they have entered into another kind of commercial arrangement (e.g., a free

[19] World Trade Organization, "The WTO and the Millennium Development Goals," http://www.wto.org/english/thewto_e/coher_e/mdg_e/mdg_e.htm.

[20] World Trade Organization, Ministerial Declaration, Annex F. December 18, 2005, WT/MIN(05)/DEC.

[21] According to the World Trade Organization Preferential Trade Arrangements database (http://ptadb.wto.org/ptaList.aspx), LDC-specific duty-free tariff preference schemes have been implemented in Morocco, Chile, China, Chinese Taipei, Korea, Kyrgyz Republic, Tajikistan, and Thailand. See also Sena Kimm Gnagnon and Shishir Priyadarshi, *Has the Multilateral Hong Kong Ministerial Decision on Duty Free Quota Free Market Access Provided a Breakthrough in the Least Developed Countries' Export Performance?*, World Trade Organization, Economic Research and Statistics Division, WTO Working Paper ERSD-2016-06, July 2016.

[22] U.N. Conference on Trade and Development, "About GSP," at http://www.unctad.org.

[23] Sanchez Arnau, Juan C. *The Generalized System of Preferences and the World Trade Organization*. London: Cameron May, Ltd., 2002, p. 187.

[24] Ibid.

trade agreement) with any other GSP-granting developed country, and in the U.S. case, "if it has, or is likely to have, a significant adverse effect on United States commerce."[25]

In terms of additional GSP product coverage for LDCs, the EU's program, which offers duty-free access for "Everything but Arms,"[26] is currently perhaps the most inclusive. GSP-granting countries may also have incentive-based programs that provide enhanced benefits for beneficiary countries that meet certain additional criteria. In 2007, for example, the EU implemented a regulation that grants additional GSP benefits to countries that have demonstrated their commitment to sustainable development and internationally recognized worker rights.[27]

Each preference-granting nation also has safeguards in place to ensure that any significant increases in imports of a certain product do not adversely affect the receiving country's domestic market. Generally, these restrictions take the form of quantitative limits on goods entering under GSP. Under Japan's system, for example, imports of certain products under the preference are limited by quantity or value (whichever is applicable) on a first-come, first-served basis, administered monthly (or daily, if indicated). For other products, import ceilings and maximum country amounts are set by prior allotment.[28] The United States quantitatively limits imports under the GSP program by placing "competitive need limit" (CNL) thresholds on the quantity or value of commodities entering duty-free, as discussed in more detail below.

Each GSP benefactor also has criteria for graduation—the point at which beneficiaries no longer qualify for benefits because they have reached a certain level of development. Most preference-granting countries require mandatory graduation based on a certain level of income per capita based on World Bank calculations. Some programs, such as the EU's, also specifically provide for graduation of certain GSP recipients with respect to specific product sectors. A description of three other countries' GSP programs follows.

EU Generalised Scheme of Preferences

The European Economic Community (EEC) began implementing GSP in January of 1971. In the current EU scheme, developing countries are automatically granted GSP status by the EU if they are classified as having an income level below "upper middle income" by the World Bank, and do not benefit from another arrangement (e.g., a free trade agreement or economic partnership agreement) already granting them preferential access to the EU market.[29] GSP countries must also respect the principles of fifteen core conventions on human rights and labor rights listed in the GSP regulation.[30]

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[25] 19 U.S.C. 2462(b)(2)(c).

[26] European Communities, GSP Council Regulation (EC) No. 2501/2001. See also Council Regulation (EC) No. 732/2008 of 22 July 2008 applying a scheme of generalised tariff preferences for the period from 1 January 2009 to 31 December 2011 and amending Regulations (EC) No 552/97, (EC) No 1933/2006 and Commission Regulations (EC) No 1100/2006 and (EC) No 964/2007. Published in Official Journal of the European Communities, (OJ) OJ L 211 of 6 August 2008. The "Everything but Arms" provision applies to all goods except arms and munitions and white sugar (from October 1, 2009, to September 2012, sugar importers "shall undertake to purchase such products at a minimum price not lower than 90% of the reference price."). See Council Regulation (EC) No 2501/2001.

[27] Ibid.

[28] World Trade Organization, Committee on Trade and Development. *Notification by Japan*, June 21, 2000, WT/COMTD/N/2/Add.9.

[29] European Commission website, "Generalized Scheme of Preferences," https://ec.europa.eu/trade/policy/countries-and-regions/development/generalised-scheme-of-preferences/.

[30] The GSP regulations and the list of conventions can be found at the EU law website, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32012R0978#d1e32-60-1.

The EU Generalised Scheme of Preferences has three different preference arrangements:

- The "Standard" GSP framework grants duty reductions for about 66% of all EU tariff lines, to low-income or middle-income countries that do not benefit from any other preferential trade access to the EU market. As of January 1, 2019 there were 15 Standard GSP beneficiaries.[31]
- The Sustainable Development and Good Governance (GSP+) grants duty-free access to the same 66% of EU tariff lines as Standard GSP to beneficiaries that are found to be especially vulnerable in terms of economic diversification and import volumes. In return, these countries must ratify and effectively implement 27 core international conventions, human and labor rights, environmental protection, and good governance.[32] As of January 1, 2019, there were 8 GSP+ beneficiary countries.
- The Everything but Arms (EBA) arrangement grants full duty-free, quota-free access for all products except arms and ammunition for all United Nations-classified least-developed countries. As of January 1, 2019, there were 48 EBA beneficiaries.[33]

Additional EU GSP Changes in 2014

On January 1, 2014, the EU implemented additional substantial changes to its Generalised Scheme of Preferences (EU GSP) program that it stated were intended to (1) better focus on countries in need; (2) further promote core principles of sustainable development and good governance; and (3) enhance stability and predictability.[34] As part of the changes, the EU mandatorily graduated all countries identified by the World Bank as upper-middle income and above, as well as excluding those countries that benefit from a preferential market access arrangement with the EU. To add a measure of stability to the program, the EU extended GSP benefits for 10 years, and provided transition periods of at least one year for those countries that will lose EU GSP eligibility.

The European Commission (EC) published a midterm evaluation of the EU's current GSP Regulation in October 2018. It "showed that the EU's current GSP is on track delivering its objectives" of bringing "clear economic benefits to developing countries, making it relevant to the development needs of developing countries," and "focusing preferences on countries most in need and has contributed to their sustainable development." Therefore, EC staff reportedly "saw no need to amend the GSP Regulation" before its expiration date of December 31, 2023.[35]

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[31] European Commission, *Report from the Commission to the European Parliament and the Council: Report on the Generalized Scheme of Preferences Covering the Period 2016-2017*, COM(2018) 36 final, Brussels, January 19, 2018.

[32] Ibid.

[33] European Commission website, https://trade.ec.europa.eu/doclib/docs/2019/may/tradoc_157889.pdf.

[34] Regulation (EU) No. 978/2012 of the European Parliament and of the Council of 25 October 2012 Applying a Scheme of Generalized Tariff Preferences and repealing Council Regulation (EC) No. 732/2008, OJ L 303/1, October 31, 2012. See also European Commission, "Revised EU Trade Scheme to Help Developing Countries Applies on 1 January 2014," Memo, December 19, 2013, http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152015.pdf.

[35] European Commission, *Report from the Commission to the European Parliament and the Council on the Application of Regulation (EU) No 978/2012 Applying a Scheme of Generalised Tariff Preferences and Repealing Council Regulation (EC) No 732/2008*, COM (2018) 665 final, October 4, 2018.

Economic Partnership Agreements

Since 2000, as part of a long-term overhaul of the EU's relationship of its trade arrangements with developing countries, including its GSP beneficiaries, negotiations have been ongoing to establish reciprocal, WTO-compliant "Economic Partnership Agreements" (EPAs) with developing country trading partners in the African, Caribbean, and Pacific regions. The most recent countries to sign on to EPAs were the Gambia (August 2018) and Mauritania (September 2018).[36]

Canada's General Preferential Tariff (GPT)

Canada's General Preferential Tariff (GPT), first implemented in 1974, provides duty-free or reduced tariff rates for designated developing country beneficiaries. The GPT program expires, and is reviewed and amended on a 10-year cycle. Canada's Economic Action Plan for 2012 announced a comprehensive review of the GPT in advance of its expiration on June 30, 2014, due to "significant shifts in the income levels and trade competitiveness of certain developing countries" since 1974, and to ensure that the GPT is "aligned with Canada's development policy objectives."[37] As a result of the review, Canada withdrew GPT benefits from 72 countries, but continues to extend preferential treatment to 103 beneficiaries, 48 of which also benefit from Canada's Least Developed Country Tariff (LDCT).[38] Canada announced that it would continue to review the list of beneficiary countries biannually, and will automatically graduate countries that are either classified for two consecutive years as high or upper-middle income countries; or have a 1% or greater share of world exports for two consecutive years.[39] Canada's GPT is currently authorized until December 31, 2024.

Japan's Generalized System of Preferences

Japan's GSP program, first implemented in 1971, provides preferential tariff treatment to 138 developing countries and five territories, and is currently authorized through March 31, 2021.[40] Beneficiaries are designated on the basis of (1) being in a stage of development, (2) having its own trade and tariff system, (3) the country's desire to receive preferential tariff treatment, and (4) a determination by Cabinet Order that the beneficiary is a country or territory to which such preferences may be extended.[41]

Reduced or duty-free status is provided for 408 products in the agricultural and fisheries sectors (Harmonized System [HS] chapters 1-24) and for 3,151 industrial/manufactured products (HS chapters 25-97). Most industrial products are duty-free to GSP beneficiaries, but tariff reductions are provided on some import-sensitive items.[42] Forty-seven countries recognized as LDCs by the

[36] European Commission. "Overview of Economic Partnership Agreements," Updated November 18, 2018, http://ec.europa.eu/trade/policy/countries-and-regions/.

[37] Canada Gazette, "Proposed Amendments to Canada's General Preferential Tariff," Volume 146, No. 51, December 22, 2012.

[38] Ibid.

[39] Ibid.

[40] Ministry of Foreign Affairs of Japan, "Generalized System of Preferences: Explanatory Notes for Japan's Scheme," https://www.mofa.go.jp/policy/economy/gsp/explain.html.

[41] Ibid.

[42] Ibid.

United Nations receive duty-free, quota-free market access for the above products, as well as for additional items (about 98% of all products defined at the tariff-line level).[43]

A country or territory may be partially graduated from Japan's GSP scheme if it is classified as a high-income country in World Bank statistics in the previous year, or is classified as an upper-middle income country and the value of the beneficiary's exports exceeds 1% of the total value of world exports in the previous year.[44] Countries are permanently graduated from GSP if they are classified by the World Bank as a high-income economy for three consecutive years.

Beneficiaries may also lose GSP benefits for certain products if, for the past three years, regarding Japanese exports of that product: (1) the average value of Japan's imports of the product originating from the beneficiary for the past three years exceeds 1.5 billion yen and 50% of the world's exports of the product to Japan, or (2) in the case of any fish product, the country or territory is judged (by a Regional Fisheries Management Organization) to be against the conservation of certain fish species.[45]

United States GSP Implementation

Congress first authorized the U.S. Generalized System of Preferences scheme in Title V of the Trade Act of 1974 (P.L. 93-618), as amended.[46] Title V provides the President authority to grant duty-free treatment under GSP for eligible products imported from any beneficiary developing country (BDC) or any least-developed beneficiary developing country (LDBDC), provided the President with economic criteria in deciding whether to take any such action, and specified certain other criteria for designating eligible countries and products.[47]

GSP country eligibility changes or changes in product coverage are made at the discretion of the President, drawing on the advice of the International Trade Commission (ITC) and the United States Trade Representative (USTR). The Trade Policy Staff Committee (TPSC), an executive branch interagency body chaired by the office of the USTR, serves as the interagency policy coordination mechanism for matters involving GSP.[48] The GSP Subcommittee[49] of the TPSC conducts an annual review in which petitions related to GSP country and product eligibility are assessed, and makes recommendations to the full TPSC, which, in turn, passes these recommendations to the USTR.

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[43] Ibid. See also World Trade Organization, *Trade Policy Review, Report by Japan*, WT/TPR/G/351, January 18, 2017.

[44] World exports as captured in World Trade Organization statistics. Japan Customs website, "Graduation/Exclusion from the GSP Scheme," http://www.customs.go.jp/english/c-answer_e/imtsukan/1506_e.htm.

[45] Ibid.

[46] Trade Act of 1974, P.L. 93-618, Title V, as amended, 19 U.S.C. §2461-2467. The GSP Program was reauthorized and amended by the Trade and Tariff Act of 1984 (P.L. 98-573), and again by Subtitle J (the GSP Renewal Act of 1996) of P.L. 104-188. Twelve laws have authorized GSP with relatively minor modifications, most recently through December 31, 2017, in Section 201 of the Trade Preferences Extension Act of 2015 (P.L. 114-27). See **Table A-1**.

[47] 19 U.S.C. §2461.

[48] According to 15 C.F.R. §2002.2, "The [Trade Policy Staff] Committee consists of a chairman designated by the Special Representative from his Office, and of senior trade policy staff officials designated from their respective agencies or offices by the Secretaries of Agriculture, Commerce, Defense, Interior, Labor, State, and Treasury, by the Executive Director of the Council on International Economic Policy, and by the Chairman of the International Trade Commission." GSP regulations are found at 15 C.F.R. §2007.

[49] The GSP Subcommittee includes officials from the agencies listed in footnote 36, except for Interior and Defense, and also includes the U.S. Agency for International Development.

Country Eligibility Criteria

When designating BDCs and LDBDCs, the President is directed to take into account certain mandatory and discretionary criteria. The law prohibits (with certain exceptions) the President from extending GSP treatment to certain countries, as follows:[50]

- other industrialized countries (Australia, Canada, EU member states, Iceland, Japan, Monaco, New Zealand, Norway, and Switzerland are specifically excluded);
- communist countries, unless they are a WTO member, a member of the International Monetary Fund, and receive Normal Trade Relations (NTR) treatment from the United States; must also not be "dominated or controlled by international communism";
- countries that collude with other countries to withhold supplies or resources from international trade or raise the price of goods in a way that could cause serious disruption to the world economy;
- countries that provide preferential treatment to the products of another developed country in a manner likely to have a significant adverse impact on U.S. commerce;
- countries that have nationalized or expropriated the property of U.S. citizens (including corporations, partnerships, or associations that are 50% or more beneficially owned by U.S. citizens), or otherwise infringe on U.S. citizens' intellectual property rights (IPR), including patents, trademarks, or copyrights;
- countries that have taken steps to repudiate or nullify existing contracts or agreements of U.S. citizens (or corporations, partnerships, or associations that are 50% or more owned by U.S. citizens) in a way that would nationalize or seize ownership or control of the property, including patents, trademarks, or copyrights;
- countries that have imposed or enforced taxes or other restrictive conditions or measures on the property of U.S. citizens; *unless* the President determines that compensation is being made, good faith negotiations are in progress, or a dispute has been handed over to arbitration in the Convention for the Settlement of Investment Disputes or another forum;
- countries that have failed to act in good faith to recognize as binding or enforce arbitral awards in favor of U.S. citizens (or corporations, partnerships, or associations that are 50% or more owned by U.S. citizens); and
- countries that grant sanctuary from prosecution to any individual or group that has committed an act of international terrorism, or have not taken steps to support U.S. efforts against terrorism.

Mandatory criteria also require that beneficiary countries:

- have taken or are taking steps to grant internationally recognized worker rights (including collective bargaining, freedom from compulsory labor, minimum age for employment of children, and acceptable working conditions with respect to minimum wages, hours of work, and occupational safety and health); and

[50] 19 U.S.C. §2462.

- implement their commitments to eliminate the worst forms of child labor.[51]

The President has the authority to waive certain mandatory criteria if he determines that GSP designation of any country is in the national economic interest of the United States and reports this determination to Congress.[52]

The President is also directed to consider certain discretionary criteria, or "factors affecting country designation":

- a country's expressed desire to be designated a beneficiary developing country for purposes of the U.S. program;
- the level of economic development of a country;
- whether or not other developed countries are extending similar preferential tariff treatment to a country;
- a country is committed to providing reasonable and equitable access to its market and basic commodity resources, and the extent to which a country has assured the United States that it will not engage in unreasonable export practices;
- the extent to which a country provides adequate protection of intellectual property rights;
- the extent to which a country has taken action to reduce trade-distorting investment policies and practices, and to reduce or eliminate barriers to trade in services; and
- whether or not a country has taken steps to grant internationally recognized worker rights.[53]

The law further authorizes the President, based on the required and discretionary factors mentioned above, to withdraw, suspend, or limit GSP treatment for any beneficiary developing country at any time (see **Table B-1** for a list of currently eligible GSP beneficiaries). **Figure 1** shows the GSP duty-free imports of the top 10 BDCs as a proportion of their total imports to the United States in 2018.[54]

[51] 19 U.S.C. §2462(b). The most recent GSP amendments required the support of U.S. efforts against terrorism and expanded the definition of internationally recognized worker rights (Section 4102 of P.L. 107-210).

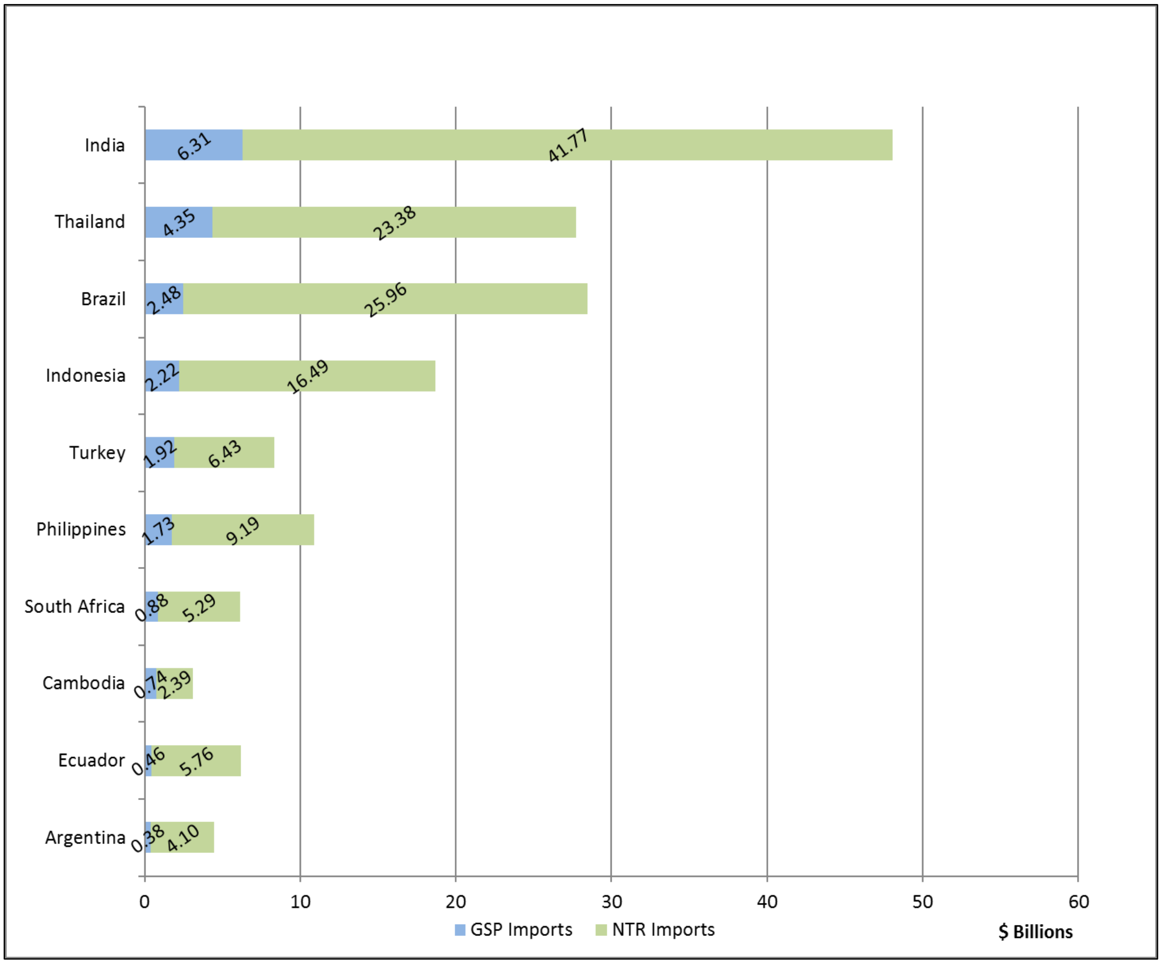
[52] 19 U.S.C. §2462(b)(2).

[53] 19 U.S.C. §2462(c). op. cit., p. 20.

[54] 19 U.S.C. §2462(d).

Figure 1. Top 10 U.S. GSP Beneficiaries, 2018

GSP imports as a proportion of BDC's total Normal Trade Relations (NTR) imports, $ billions



Source: CRS chart based on data from the International Trade Commission Trade Dataweb.

Note: Turkey (as of May 2019) and India (as of June 2019) are no longer GSP beneficiaries.

Least-Developed Beneficiaries

The President is authorized by statute to designate any BDC as a LDBDC, based on an assessment of the conditions and factors previously mentioned.[55] Although the United Nations' designation of LDCs plays a large factor in GSP least-developed beneficiary determinations,[56] U.S. officials may also assess compliance with GSP statutory requirements and comments from the public (as requested in the *Federal Register*) before identifying a country as "least-developed" for purposes of the GSP.[57]

[55] 19 U.S.C. §2462(a)(2).

[56] 19 U.S.C. §2462(c)(2).

[57] For example, see USTR, "Generalized System of Preferences (GSP): Initiation of a Review to Consider the Designation of East Timor as a Least Developed Beneficiary Country under the GSP," 71 *Federal Register* 43543, August 1, 2006. In practice, Administration designations are generally based on the United Nations designations of

Countries Most Recently Granted GSP Eligibility

On December 22, 2017, President Trump reinstated Argentina's GSP eligibility.[58]

On September 14, 2016, President Obama announced that Burma was eligible for GSP and also designated it a least-developed beneficiary. The action ended a 27-year suspension of Burma's GSP benefits due to worker rights violations.[59] The reinstatement followed an extensive review of Burma's compliance with GSP eligibility criteria that had been ongoing since Burma's government first requested GSP reinstatement in 2013.[60] Burma's eligibility status became official on November 14, 2016, following a 60-day congressional notification period.[61] The review of Burma's GSP eligibility was just one part of a comprehensive review of the bilateral relationship in the wake of Burma's return to democratic governance.

Country Graduation from GSP

The President may terminate, suspend, or limit the GSP status of a BDC if he determines that a country is determined to be sufficiently competitive or developed. In May 2019, President Trump terminated Turkey's GSP eligibility for this reason.[62]

Mandatory GSP country graduation occurs when the BDC is determined to be a "high income country" as defined by official World Bank statistics (gross national income [GNI] per capita of $12,055 or more as of July 1, 2019).[63] The last time that countries were mandatorily graduated from GSP was on September 30, 2015, when President Obama determined that Seychelles, Uruguay, and Venezuela had become "high income" countries, and therefore, no longer eligible for GSP benefits, effective January 1, 2017.[64]

If a country becomes part of an association of countries specifically excluded from GSP, the country is also mandatorily withdrawn from GSP. Bulgaria and Romania were the last countries to lose GSP eligibility for this reason, effective when they became EU member states as of January 1, 2007.[65] Croatia, the latest country to join the EU (in 2013), was also previously a GSP

LDCs.

[58] Proclamation 9687 of December 22, 2017, "To Take Certain Actions Under the African Growth and Opportunity Act and for Other Purposes," 82 *Federal Register* 61413, December 22, 2017.

[59] Proclamation 5955 of April 13, 1989, "Amending the Generalized System of Preferences," 54 *Federal Register* 15357, April 18, 1989.

[60] United States Trade Representative, "United States Reinstates Trade Preference Benefits for Burma Following Review of Eligibility Criteria," press release, September 2016. See also CRS In Focus IF10352, *U.S. Relations with Burma: Key Issues for 2016*, by Michael F. Martin.

[61] Proclamation 9492 of September 14, 2016, "To Modify Duty-Free Treatment Under the Generalized System of Preferences," 81 *Federal Register* 63671, September 18, 2016.

[62] Proclamation 9887 of May 16, 2019, "To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974," 84 Federal Register 23425, May 20, 2019.

[63] 19 U.S.C. §2462(e).

[64] Proclamation 9333 of September 30, 2015, "To Modify Duty-Free Treatment Under the Generalized System of Preferences and for Other Purposes, 80 *Federal Register* 60249, October 5, 2015.

[65] Proclamation 8098 of December 29, 2006, "To Take Certain Actions Under the African Growth and Opportunity Act and the Generalized System of Preferences," 72 *Federal Register* 459, January 4, 2007. Croatia, the last country to join the EU in July 2013, was also previously a GSP beneficiary, but graduated in 2011. European Union member states are specifically identified as ineligible for designation as GSP countries in 19 U.S.C. §2462 (b)(1)(C).

beneficiary, but was mandatorily graduated from GSP as a "high income" country in 2009, prior to its accession to the EU.[66]

Although not specifically required by the GSP statute, a developing country that enters into a free trade agreement (FTA) with the United States, at the discretion of Congress, generally loses GSP eligibility in favor of the reciprocal concessions granted by the FTA. Specific language to this effect appears in FTA implementing legislation.[67]

The President may also suspend, terminate, withdraw, or limit a country's GSP status if he determines that a country is not complying with one or more of the GSP statute's eligibility requirements.[68] On May 31, 2019, the President terminated India's GSP designation because"India has not assured the United States that India will provide equitable and reasonable access to its markets."[69]

Reporting Requirements

The President must advise Congress prior to the designation of any country as a GSP beneficiary, and at least 60 days before he designates any country as a least-developed beneficiary country.[70] The President must also notify Congress at least 60 days in advance of the termination of a country's GSP status.[71] A country's change in status becomes effective following the President's formal announcement by executive order or presidential proclamation.[72] The President must also advise Congress "as necessary" on the application of presidential authority, and the actions taken to "withdraw, suspend, or limit" the application of duty-free treatment if beneficiaries are not found to be in compliance with certain eligibility criteria.[73]

Additional GSP reporting requirements include an annual report to Congress on the status of internationally recognized worker rights within each BDC, including findings of the Secretary of Labor with respect to the beneficiary country's implementation of its international commitments to eliminate the worst forms of child labor.[74]

Eligible Products

The Trade Act of 1974 authorizes the President to designate certain imports as eligible for duty-free treatment under the GSP after receiving advice from the United States International Trade

[66] Croatia was designated a BDC in Proclamation 6465 of August 25, 1992, "To Amend the Generalized System of Preferences," 57 *Federal Register* 30395, August 27, 1992, and was graduated from the GSP program in Proclamation 8467 of December 23, 2009, "To Modify Duty-Free Treatment Under the Generalized System of Preferences," 74 *Federal Register* 69221, December 30, 2009.

[67] Colombia and Panama were the latest countries to lose GSP status for this reason. See Section 201(a)(2) of the United States-Colombia Trade Promotion Agreement (P.L. 112-42) and Section 201(a)(2) of the United States-Panama Trade Promotion Implementation Act (P.L. 112-43). One country, Jordan, continues to be eligible for GSP benefits even though it entered into an FTA with the United States in 2001.

[68] 19 U.S.C. §2462(d)(1).

[69] Proclamation 9902 of May 31, 2019, "To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974," 84 *Federal Register* 26323, June 5, 2019.

[70] 19 U.S C. §2462(f)(1).

[71] 19 U.S.C. §2462(f)(2).

[72] 19 U.S.C. §2462(d)(2).

[73] 19 U.S.C. §2462(d)(3).

[74] 19 U.S.C. §2464. See U.S. Department of Labor, Bureau of International Labor Affairs, *2017 Findings on the Worst Forms of Child Labor*, https://www.dol.gov/agencies/ilab/resources/reports/child-labor/findings.

Commission (ITC).[75] "Import-sensitive" products specifically excluded from preferential treatment include most textiles and apparel goods; watches; footwear and other accessories; most electronics, steel, and glass products; and certain agricultural products that are subject to tariff-rate quotas.[76] Congress, from time to time, has amended the GSP law to provide the President with additional authority to declare duty-free access for certain products previously considered "import-sensitive," provided that the ITC examines the possible effects on the U.S. market of granting duty-free access to GSP beneficiaries. The last time that Congress amended the list of import-sensitive products was in Section 204 of P.L. 114-27, the Trade Preferences Extension Act of 2015, which gave the President the authority to designate certain luggage and travel products as eligible for GSP.

GSP Rules of Origin

Eligible goods under the U.S. GSP program must meet certain rules of origin (ROO) requirements in order to qualify for duty-free treatment. First, duty-free entry is only allowed if the article is imported directly from the beneficiary country into the United States without entering the commerce of a third country. Second, at least 35% of the appraised value of the product must be the "growth, product, or manufacture" of a beneficiary developing country, as defined by the sum of (1) the cost or value of materials produced in the BDC (or any two or more BDCs that are members of the same association or countries and are treated as one country for purposes of the U.S. law), plus (2) the direct costs of processing in the country.[77]

GSP Product Coverage

More than 3,500 products[78] are currently eligible for duty-free treatment, and about 1,500 additional products originating in LDBDCs may receive similar preferential treatment. **Table 1** provides leading products imported under GSP from all countries in 2018, including the Harmonized Tariff Schedule (HTS) subheading and description, along with the tariff that would have been assessed if the product had been imported under NTR tariff rates. **Figure 2** shows the Top 10 U.S. GSP imports in 2018 as a proportion of U.S. total NTR trade for those products.

[75] 19 U.S.C. §2463(a)(1).

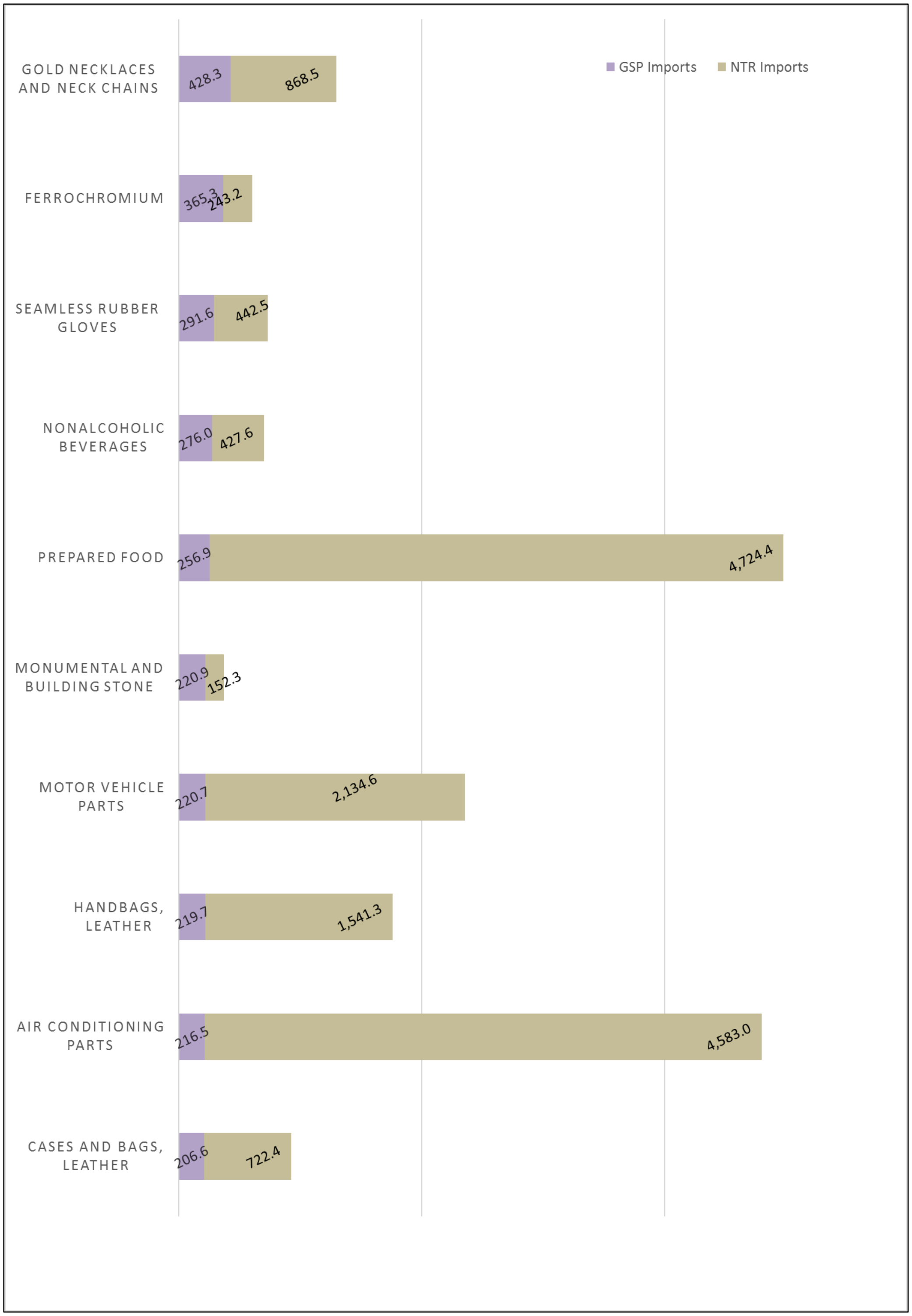
[76] 19 U.S.C. §2463(b).

[77] 19 U.S.C. § 2463(a).

[78] GSP-eligible products are classified in the Harmonized Tariff Schedule of the United States (HTSUS) eight-digit tariff level.

Figure 2. Top 10 U.S. GSP Imports, 2018

GSP imports as a proportion of total Normal Trade Relations (NTR) imports, $ millions



Source: CRS chart based on data from the International Trade Commission Trade Dataweb.

Table 1. Leading U.S. GSP Imports, 2018

HTS Number	NTR Tariff Rate (If No GSP)	HTS Description	GSP Imports (millions U.S. $)
72024100	1.9%	Ferrochromium containing by weight more than 4 percent of carbon	$480.6
71131929	5.5%	Gold necklaces and neck chains (other than of rope or mixed links)	$393.8
22029990	$0.2 cents per liter	Nonalcoholic beverages, not otherwise indicated, not including fruit or vegetable juices of heading 2009	$347.0
40151910	3.0%	Seamless gloves of vulcanized rubber other than hard rubber, other than surgical or medical gloves	$278.3
68029900	6.5%	Monumental or building stone and articles thereof, not otherwise specified or indicated, further worked than simply cut/sawn, not otherwise specified or indicated.	$273.2
78011000	2.5% on the value of the lead content	Refined lead, unwrought	$253.1
21069098	6.4%	Other food preparations not otherwise specified or indicated, including preparations for the manufacture of beverages, non-dairy coffee whiteners, herbal teas and flavored honey	$234.8
84159080	1.0%	Parts for air conditioning machines, not otherwise specified or indicated	$222.3
17011410	between $1.4606 cents per kg and $0.943854 cents per kg based on quality	Other cane sugar, raw, in solid form, w/o added flavoring or coloring	$220.9
76061230	3.0%	Aluminum alloy, plates, sheets, or strip, with thickness over 0.2mm, rectangular (including square), not clad	$218.2
71131950	5.5%	Precious metal (other than silver) articles of jewelry and parts thereof, whether or not plated or clad with precious metal, not otherwise specified or indicated	$216.4
87089475	2.5%	Parts and accessories of motor vehicles of HTS 8701, not otherwise specified or indicated, and 8702-8705, parts of steering wheels/columns/boxes, not otherwise specified or indicated.	$193.0
40111010	4.0%	New pneumatic radial tires, of rubber, of a kind used on motor cars (including station wagons and racing cars)	$187.7

HTS Number	NTR Tariff Rate (If No GSP)	HTS Description	GSP Imports (millions U.S. $)
40112010	4.0%	New pneumatic radial tires, of rubber, of a kind used on buses or trucks	$181.7
73239300	2.0%	Stainless steel, table, kitchen, or household articles and parts thereof	$169.8

Source: CRS table based on data from the International Trade Commission Trade Dataweb.

Annual Reviews

The TPSC's GSP Subcommittee reviews and revises the lists of eligible products annually, generally on the basis of petitions received from beneficiary countries or interested parties requesting that additional products be reviewed (i.e., added or removed) for GSP eligibility.[79] When a country's petition for product eligibility is approved, the product becomes GSP-eligible for all BDCs (or only for LDBDCs if so designated).[80] The 2019 annual product review was announced in the Federal Register on June 14, 2019.[81] In the context of an annual product review, countries may petition for certain products to be added to the GSP, or to receive waivers of certain limits to GSP status, as described below. Interested parties are also given the opportunity for public comment and hearings are held. Results of the 2019 Annual Product Review will probably be announced in late October or early November 2019.[82]

The GSP Subcommittee also annually reviews issues regarding BDCs' and LDBDCs' observance of country practices (such as worker rights or IPR protection); investigates petitions to add or remove items from the list of eligible products; and considers which products should be removed on the basis that they are "sufficiently competitive," or are "import sensitive" relative to U.S. domestic firms.[83]

The GSP Subcommittee, after consultations with the ITC, also makes recommendations to the President regarding various product waivers that BDCs may have requested. Waiver petitions, if granted, are country-specific. Any modifications to product lists usually take effect on July 1 of the calendar year after the next annual review is launched, but may also be announced and become effective at other times of the year. At the completion of an annual review, the results are announced by proclamation.

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[79] The GSP Subcommittee is a sub-group of the Trade Policy Staff Committee (TPSC). The TPSC, through the USTR, is charged with advising the President on GSP beneficiary country designations and covered products (see Section 8 of Executive Order 11846, 40 *Federal Register* 14291, as amended).

[80] USTR, *U.S. Generalized System of Preferences: Guidebook*, September 2016 (hereinafter, GSP Guidebook).

[81] USTR, "Generalized System of Preferences (GSP): Notice Regarding the 2019 GSP Annual Product Review," 84 *Federal Register* 27830, June 14, 2019.

[82] Ibid.

[83] 19 U.S.C. §2463(d)(1)(A). See United States International Trade Commission, *Generalized System of Preferences: Possible Modifications, 2017 Review*, Publication Number: 4827, Investigation Number: 332-567, September 2018, https://usitc.gov/sites/default/files/publications/332/pub4827.pdf.

Petitions to Add to or Remove Products from the GSP

In the context of a GSP annual review, beneficiaries or other interested parties may request that certain products be added to the list of eligible products for GSP. If a beneficiary requests that a product be provided GSP status, and the request is approved, the product becomes GSP-eligible for all GSP beneficiaries (or, in some instances, for least-developed beneficiaries only). For example, in the context of the 2017-2018 product review, petitions were received for nine products to become GSP-eligible, including certain transmission V-belts (Harmonized Tariff Schedule (HTS) 4040.33.30), peel of certain citrus fruit (HTS 0814.00.80), and sunflower and safflower oil (HTS 1512.11.00). All of these requests were denied.[84]

Interested parties may also request that products be removed from GSP eligibility. In the last completed annual review in 20, a petition for cherry juice from Turkey (HTS 2009.89.6011 and 6019) to be denied GSP eligibility was granted, while a request to remove non-adhesive plates, sheets and strip, etc. made of polymethyl methacrylate from GSP (HTS 3920.51.50) with respect to India and Thailand) was denied.[85] The annual product review for 2019 is still ongoing as of this writing.

Competitive Need Limits (CNL)

The GSP statute establishes "competitive need limit" (CNL) requirements for the President to suspend GSP treatment for individual products from BDCs (LDBDCs and AGOA countries are exempt) if:

- imports of a product from a single country reach a specified threshold value, which increases by $5 million each calendar year (i.e., $190 million in 2019 and $195 million in 2020); or
- 50% or more of total U.S. imports of a product entering under GSP come from a single country.[86]

Section 502 of P.L. 115-141 amended the date that products that exceed the CNL become GSP-ineligible from GSP to November 1 of the next calendar year rather than July 1.

CNL Waivers

BDCs may petition for CNL waivers, which the President reviews on a case-by-case basis. In deciding whether to grant a waiver, the President must (1) receive advice from the ITC as to whether a U.S. domestic industry could be adversely affected by the waiver; (2) determine that the waiver is in the U.S. economic interest; and (3) publish the determination in the *Federal*

[84] Proclamation 9813 of October 30, 2018, "To Modify the List of Products Eligible for Duty-Free Treatment Under the Generalized System of Preferences," 83 *Federal Register* 54853, October 31, 2018. The USTR is not required to state a reason for acceptance or rejection of product eligibility. Among possible reasons for product rejections are that a U.S domestic producer opposed the product's GSP eligibility or the ITC's determination that imports of the product under GSP could cause harm to a U.S. producer.

[85] Ibid.

[86] LDBDCs and sub-Saharan African beneficiaries of AGOA are exempt from competitive need limits (19 U.S.C. § 2463(c)(2)(A)). See also GSP Guidebook, p. 11.

Register.[87] The President is also required to give "great weight" to the extent to which the BDC opens its markets to the United States and protects IPR.[88]

In 2006, Congress amended the GSP law to provide that the President should revoke any CNL waiver that had been in effect for five years or more if (1) the exports of the product were in excess of 1.5 times of the specified dollar amount reflected in the CNL provision; or (2) imports of the product exceeded 75% of the appraised value of total imports of the product into the United States in a calendar year.[89]

After the 2018 GSP review, in Proclamation 9813 of October 30, 2018, the President granted CNL waivers on certain edible products of animal origin (HTS 0410.00.00) from Brazil, lithium carbonates (HTS 2836.91.00) from Argentina, and ferrosilicon chromium (HTS 7202.50.00) from Kazakhstan.[90]

De Minimis Waivers

De minimis waivers may also be provided if the total dollar value of a particular product imported into the United States from *all countries* is small. The *de minimis* level is adjusted each year, in increments of $500,000; for example, $24.5 million in 2019, $25.0 million in 2020, and $25.5 million in 2021.[91] In the 2018 GSP product review, no *de minimis* waivers were granted.

Waivers for Articles Not Produced in the United States (NPUS)

Prior to the enactment of the most recent GSP renewal, certain products that the President determined were not produced in the United States on January 1, 1995, were eligible for waivers of competitive need limits. Division M, Section 502 of P.L. 115-141 (enacted in March 2018) amended the statute to provide that BDCs could apply for waivers for certain products that were not produced in the United States for *three years prior to the waiver request*. Interested parties may petition for a waiver during the annual review process.[92]

Reviews of Country Practices

As part of GSP annual reviews, any interested party may file a request that the GSP eligibility of any current GSP beneficiary be reviewed. For example, the GSP review of India announced in April 2018 was based on market access petitions from three U.S. industry associations alleging that India did not provide equitable and reasonable access to its market. An ongoing eligibility review of Kazakhstan is based on a petition from the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) alleging that its government restricts the right to form trade unions and other internationally recognized worker rights.[93] A new country practice review of Thailand was also announced on May 30, 2018, on the basis of a petition from the National

[87] 19 U.S.C. §2463(d).

[88] 19 U.S.C. §2463(d)(2).

[89] Ibid.

[90] Proclamation 9813 of October 30, 2018, "To Modify the List of Products Eligible for Duty-Free Treatment Under the Generalized System of Preferences," 83 *Federal Register* 54853, October 31, 2018.

[91] 19 U.S.C. §2463(c)(2)(F). These waivers are automatically reviewed by the GSP Subcommittee (see below), but are granted at the discretion of the President.

[92] 19 U.S.C. §2463(c)(2)(E). See USTR Guidebook, p. 11.

[93] Ibid.

Pork Producers Council, alleging that it is not meeting the GSP eligibility criterion to provide equitable and reasonable market access.[94]

In October 2017, USTR Lighthizer announced a new "proactive" process for ensuring that GSP beneficiaries are complying with the program's eligibility criteria. The process includes increased efforts to conclude outstanding country practices reviews, and a triennial assessment of each beneficiary's compliance with the statutory GSP eligibility criteria. The first assessment period (in 2018) focused on Asian BDCs. GSP countries in other areas of the world will be assessed in the second and third years of the process. If the TPSC review raises concerns about a BDC's compliance, it may self-initiate a country practice review of the country's continued GSP eligibility.[95] The new country practice reviews of India, Indonesia, and Turkey initiated in 2018 were, in part, self-initiated by the TPSC due to this compliance review strategy.[96]

On October 15, 2018, the U.S. Trade Representative (USTR) announced an additional hearing of GSP beneficiaries for ongoing reviews of specific country practices. USTR targeted Bolivia (worker rights), Ecuador (arbitral awards), Georgia (worker rights), Indonesia (intellectual property rights), Iraq (worker rights), Thailand (worker rights), Ukraine (intellectual property rights), and Uzbekistan (worker rights and intellectual property rights).[97] In addition, the hearing notice announced that it would include discussions on the ongoing country designation review for Laos.[98] The hearing was held on November 29, 2018. As of this writing, the country practice reviews and the country designation review of Laos are ongoing.[99]

On August 16, 2018, the USTR announced the initiation of a GSP country practice review of Turkey focusing on the requirement of a GSP beneficiary to "assure the United States that it will provide equitable and reasonable access to its market." A hearing was held on September 26, 2018.[100] Turkey's GSP eligibility was revoked instead because it had received a sufficient level of economic development.[101]

[94] USTR.

[95] USTR, "USTR Announces New Enforcement Priorities for GSP," press release, October 2017, https://ustr.gov/about-us/policy-offices/press-office/press-releases/2017/october/ustr-announces-new-enforcement. Division M, Section 501(c) of P.L. 115-141, required that the USTR write an annual report on efforts to ensure that BDCs are meeting the eligibility criteria specified in the GSP Law (expires December 31, 2020).

[96] USTR, "Initiation of Country Practice of India, Indonesia, and Kazakhstan," 83 *Federal Register* 18618, April 27, 2018.USTR, "Generalized System of Preferences (GSP): Notice Regarding the Initiation of a Country Practice Review of Turkey," 83 *Federal Register* 40839, August 16, 2018.

[97]USTR, "Generalized System of Preferences (GSP): Notice Regarding a Hearing for Ongoing Country Practice Reviews of Bolivia, Ecuador, Georgia, Indonesia, Iraq, Thailand, and Uzbekistan and the Ongoing Country Designation Review of Laos," 83 *Federal Register* 52048, October 15, 2018.

[98] Ibid.

[99] Ibid. Country practice reviews do not have definitive termination dates. The TPSC provides its findings and recommendations to the President.

[100] USTR, "Generalized System of Preferences (GSP): Notice Regarding the Initiation of Country Practice Review of Turkey," 83 *Federal Register* 40839, August 16, 2018. A transcript of the hearing is available at https://www.regulations.gov/docket?D=USTR-2018-0031. See CRS Report R45249, *Section 232 Investigations: Overview and Issues for Congress*, coordinated by Rachel F. Fefer.

[101] Proclamation 9887 of May 16, 2019, "To Modify the List of Beneficiary Developing Countries Under the Trade Act of 1974," 84 Federal Register 23425, May 20, 2019.

Effects of the U.S. GSP Program

The statutory goals of the U.S. GSP program are to (1) promote the development of developing countries; (2) promote trade, rather than aid, as a more efficient way of promoting economic development; (3) stimulate U.S. exports in developing country markets; and (4) promote trade liberalization in developing countries.[102] It is difficult to assess whether or not the program alone has achieved these goals, however, because the GSP is only one of many initiatives used by the United States to assist poorer countries. Economic success within countries is also related to internal economic and other factors, such as governance, stability, wise policy decisions, availability of infrastructure to foster industry, and legal/financial frameworks that encourage foreign investment. External macroeconomic factors, including global economic growth, worldwide economic shocks, exchange rates, and regional stability may also influence the growth of developing countries.

What follows, therefore, are general comments, rather than hard data, about the impact of GSP on developing countries, and possible economic effects on the U.S. market. The positions of various stakeholders regarding the value of the program are also discussed.

Effects on Developing Countries

From 2000 to 2008, total U.S. imports from all GSP countries (see **Figure 3**, red line, includes imports entering the United States without preferential tariff treatment) increased dramatically by value, from $172 billion in 2000 to a peak of $384 billion in 2008. In 2009, imports from GSP countries decreased by 36% (to $246 billion) in 2009, largely due to the effects of the global economic downturn. Total imports increased to $367 billion in 2011, but decreased gradually to $238 billion in 2014, $207 billion in 2015, and $202 billion in 2016. In 2017, total imports from all GSP countries increased to $220 billion (up 12% from 2016) and again in 2018 to $238.3 (up 8% from 2017). The overall decline in total imports from GSP-eligible countries from 2012 to 2016 could have been due to an overall reduction in commodity prices,[103] combined with geopolitical tensions, tightening of financial conditions, and political instability in some countries.[104]

Imports entering under the GSP program (see **Figure 3**, blue line, represents only imported products that qualify for GSP duty-free treatment) have been relatively static, averaging about 11% of all imports from GSP countries.[105] A number of factors could explain this, including uncertainty based on short-term GSP program renewals and long pauses between program authorization periods. Other programmatic factors that could keep GSP imports fairly constant over time include suspension, termination, or graduation of some countries from GSP eligibility; exclusion of certain products from eligibility through CNLs; and the entry of some developing

[102] P.L. 98-573, Section 501(b), 19 U.S.C. §2461 note. Additional factors are to allow for differences in developing countries; help developing countries generate foreign exchange reserves, further integrate developing countries into the international trading system; and encourage developing countries to eliminate trade barriers, guard intellectual property rights, provide worker rights; and address concerns of the United States with regard to adverse effects on U.S. producers and workers and compliance with GATT obligations.

[103] For example, several LDBDCs export petroleum products to the United States, many of which are GSP-eligible.

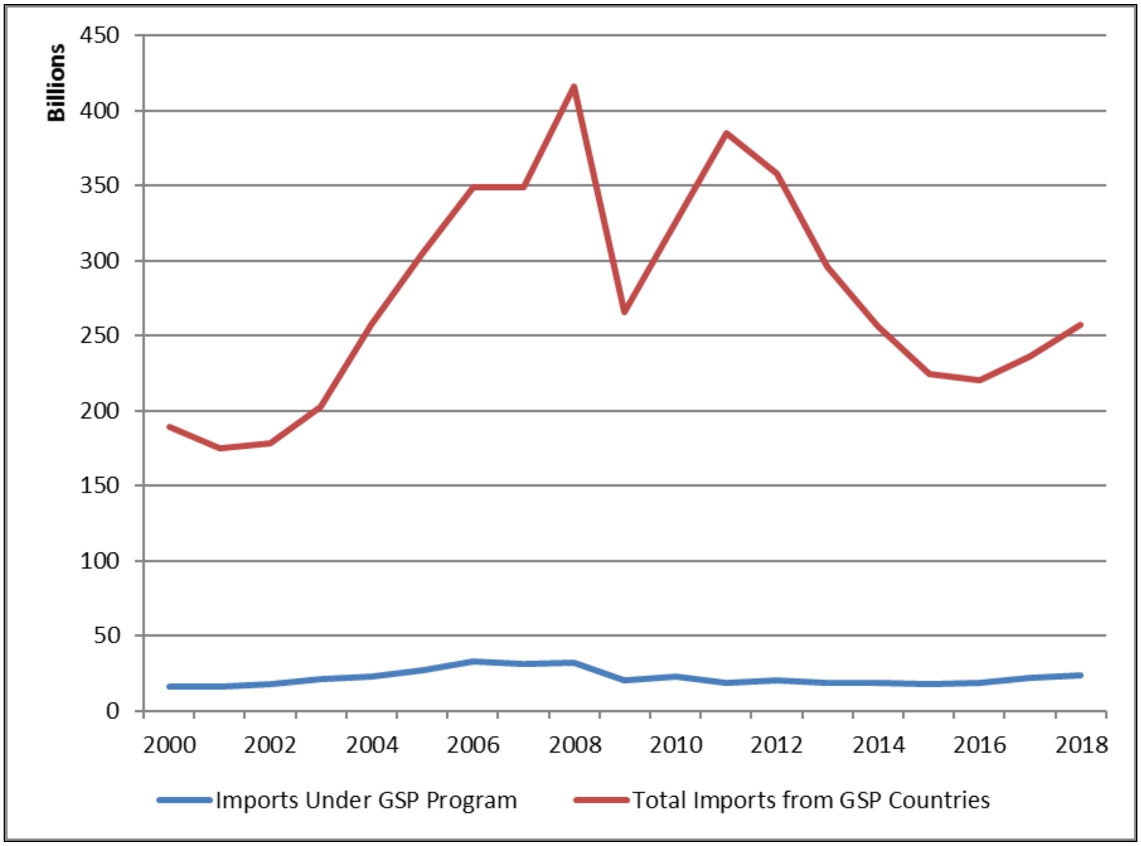
[104] World Bank, *Global Monitoring Report 2015/2016: Developing Goals in an Era of Demographic Change*, 2015, pp. 117-118, https://openknowledge.worldbank.org/handle/10986/22547.

[105] GSP trade data are estimated for 2013 and 2014 (when GSP had expired) based on U.S. entries of goods filed electronically with a Special Program Indicator (SPI) designating them as eligible for GSP benefits. In addition, African Growth and Opportunity Act (AGOA) countries continued to receive GSP benefits despite GSP expiration.

countries (many of which had been GSP beneficiaries) into FTAs with the United States and thus being disqualified from GSP eligibility. In addition, some products from BDCs may receive more favorable treatment under other trade preference programs, such as AGOA or the Caribbean Basin Initiative (CBI).[106]

Figure 3. U.S. Imports from GSP Countries

2000-2018 current dollars



Source: United States International Trade Commission Trade Dataweb.

Many developing countries with a natural competitive advantage in certain products use trade preferences such as the GSP to gain a foothold in the international market. For example, India and Thailand, two countries with well-established jewelry industries, were able to expand their international reach through GSP programs. As the jewelry products reached their CNL thresholds, those countries were no longer eligible to receive duty-free status for their jewelry products under GSP, but gained a foothold in the U.S. and international markets that enabled their jewelry industries to continue to be competitive.[107]

However, some developing countries could also be encouraged by preferential trade programs to develop industry sectors in which they might not otherwise ever be able to compete, thus

[106] World Bank, World Integrated Trade Solution (WITS) database. http://wits.worldbank.org.

[107] Gold neck chains and other jewelry products continue to be leading products imported under GSP, but imports of these products from India and Thailand under GSP have been replaced by GSP imports from Turkey, South Africa, Indonesia, Pakistan, and Bolivia.

diverting resources from other industries that might stand a better chance of becoming competitive over time (trade diversion).[108]

Some economists assert that the lack of reciprocity in the GSP program could result in long-term costs for beneficiary countries, because by not engaging in multilateral, reciprocal negotiations in favor of preference programs, these countries keep in place protectionist trade policies that could ultimately impede their long-term growth. The nonreciprocal preferences could also become an impediment to multilateral trade negotiations because beneficiaries may prefer to seek ways of maintaining them rather than exchanging them for reciprocal benefits.[109]

For this reason, some economists prefer multilateral, nondiscriminatory tariff cuts because preferential tariff programs, such as the GSP, could lead to inefficient production and trade patterns in developing countries.[110] They say that when tariffs are reduced across-the-board, rather than in a preferential manner, countries tend to produce and export on the basis of their comparative advantage—exporting products that they produce relatively efficiently and importing products that others produce relatively efficiently.[111]

Economic Effects on the U.S. Market

In 2018, products valued at $23.8 billion (imports for consumption) entered the United States duty-free under the GSP program, out of $238.3 billion worth of imports from all eligible BDCs. In comparison, total U.S. imports from all countries for 2018 amounted to about $2.6 trillion. These figures suggest that the overall effects of GSP on the U.S. economy are relatively small. In addition, most U.S. producers of import-competing products are largely protected from severe economic impact. First, certain products, such as most textile and apparel products, are designated as "import sensitive" and therefore ineligible for duty-free treatment. Second, CNLs are triggered when imports of a product from a single country reach a specified threshold value, or when 50% of total U.S. imports of a product come from a single country.[112] Third, U.S. manufacturers or producers may petition the USTR to withdraw GSP benefits from a certain product if they are injured by the preference.[113]

In federal budgetary terms, according to the Congressional Budget Office cost estimate for the most recent GSP reauthorization legislation (P.L. 115-141), the GSP program was projected to cost the United States (in foregone tariff revenues) about $347 million in 2018, $475 million in 2019, $492 million in 2020, and $129 million in 2021, for a total of about $1.4 billion.[114]

Many U.S. manufacturers and importers benefit from the lower cost of consumer goods and raw materials imported under the GSP program.[115] U.S. demand for certain individual products,

[108] OECD, "Making Open Markets Work for Development," *Policy Brief*, October 2005, p. 2.

[109] Patrick Low, Roberta Piermartini, and Jurgen Richtering, *Multilateral Solutions to the Erosion of Non-Reciprocal Preferences in NAMA*, World Trade Organization, Economic Research and Statistics Division, Working Paper ERSD-2005-05, October 2005. R. E. Baldwin and T. Murray, "MFN Tariff Reductions and Developing Country Trade Benefits Under the GSP," *The Economic Journal*, vol. 87, no. 345 (March 1977), pp. 30-46.

[110] Bernard Herz and Marco Wagner, *The Dark Side of the Generalized System of Preferences*, German Council of Economic Experts, Working Paper 02/2010, February 2010, p. 27.

[111] Ibid.

[112] 19 U.S.C. §2463(c).

[113] 15 C.F.R. part 2007.0(a).

[114] Congressional Budget Estimate for House Rules Committee Print 115-66, the Consolidated Appropriations Act, 2018, March 22, 2018, https://www.cbo.gov/publication/53669.

[115] Coalition for GSP, *Lost Sales, Investments, and Jobs: Impact of GSP Expiration After One Year*, September 16,

including jewelry, leather, and aluminum, is quite significant.[116] The Coalition for GSP, a group of U.S. companies and associations that benefit from, and advocate for, the GSP program, asserts that companies in 40 states paid at least $1 million in higher tariffs due to the GSP expiration in 2014, with California firms paying an estimated $100 million in tariffs.[117] It asserts that, during periods of GSP expiration, small and medium enterprises (SMEs) bear a disproportionate share of the burden, resulting in lower sales and lost jobs.[118] It is also possible, however, that other factors, including slower growth and reduced demand in the U.S. market, contribute to adverse economic impacts on these businesses.

Stakeholders' Concerns

Supporters of the GSP program include beneficiary developing country governments and exporters, U.S. importers, and U.S. manufacturers who use inputs entering under GSP in downstream products. Some Members of Congress favor GSP renewal, because they believe it is an important development and foreign policy tool. Opposing the program are some U.S. producers who manufacture competing products and some in Congress who favor more reciprocal approaches to trade policy. What follows is a thematic approach to the major topics of discussion in the GSP renewal debate.

"Special and Differential Treatment"

Developing countries have long maintained that "special and differential treatment," such as that provided by the GSP, is an important assurance of access to U.S. and other developed country markets in the midst of increasing globalization.[119] Many of these countries have built industries or segments of industries based on receiving certain tariff preferences.

Some in Congress and in previous Administrations have expressed the desire to see reciprocal trade relationships with some of the emerging market economies that are still beneficiaries of nonreciprocal U.S. preference programs.[120] At the same time, there is continued broad support for preference programs in general, including GSP, CBI, and AGOA.[121]

2014.The Coalition for GSP, a coalition of more than 600 U.S. companies and organizations in support of GSP renewal, makes the case that nonrenewal of GSP costs U.S. businesses an estimated $2 million per day in additional tariffs, see http://renewgsptoday.com.

[116] In some product categories, imports under GSP account for 25% or more of total U.S. imports. For example, in 2013, 94% of copper stranded wire in HTS 7413.00.10; 76% of ferrochromium in HTS 7272.41.00; 72% of cocoa paste in HTS 1803.20.00; and 70% of plywood sheets of 6mm thick and under in HTS 4412.31.40 were imported under the GSP program. GSP expired on July 31, 2013.

[117] Coalition for GSP, *Lost Sales, Investments, and Jobs: Impact of GSP Expiration After One Year*, September 16, 2014.

[118] Ibid.

[119] For example, see World Trade Organization, Committee on Trade and Development, *Special and Differential Treatment Provisions in WTO Agreements and Decisions*, Note by the Secretariat, WT/COMTD/W/196, June 14, 2013, at http://www.wto.org/english/tratop_e/devel_e/dev_special_differential_provisions_e.htm.

[120] For example, see U.S. Congress, Senate Committee on Finance, *The African Growth and Opportunity Act at 14: The Road Ahead*, 113th Cong., 2nd sess., July 30, 2014.

[121] *Inside U.S. Trade*, "Congress Working on Advancing GSP Renewal; Senate Pushing GSP-Only," June 20, 2014.

Erosion of Preferential Margins

Developing countries have expressed concern about the overall progressive erosion[122] of preferential margins as a result of across-the-board tariff negotiations within the context of multilateral trade negotiations such as the Doha Round. In 1997, a study prepared by the Organisation for Economic Co-operation and Development (OECD) found that the degree of erosion of preferences resulting from Uruguay Round (1986-1994) tariff concessions by the Quad countries (Canada, European Union, Japan, United States) was indeed significant.[123] Some economists point out that if multilateral rounds of tariff reductions continue, combined with the proliferation of bilateral and regional trade agreements, the preference may disappear completely unless GSP tariff headings are expanded to include more import-sensitive products.[124]

One example of present concern of preference erosion could be WTO efforts to provide duty-free, quota-free (DFQF) U.S. market access for all products to all least-developed countries. Many sub-Saharan African countries have expressed concern that an approach like this could place them in direct competition for U.S. market share with other developing countries, thus diluting the value of the preferential treatment that they receive through AGOA.[125]

Other economists say that preference erosion could be more than outweighed by the benefits of increased market access brought about by multilateral trade liberalization.[126] These economists say that, rather than continuing GSP and other preferential programs (either through inertia or concern that removing them would be seen as acting against the world's poorest populations), a better approach might be to "assist them in addressing the constraints that really underlie their sluggish trade and growth performance."[127]

Underutilization of GSP

Some academic literature on preference programs, including GSP and free trade agreements, suggests that they are not used to their fullest extent. One reason cited is that the benefits accruing to importers may not be worth the additional costs (such as the additional paperwork needed to fulfill the local content rule of origin) associated with claiming the preference.[128]

Additional literature suggests that some countries may not use GSP for a variety of reasons, including unfamiliarity of exporters with the program; BDC governments not sufficiently promoting the existence of available opportunities under the preference; lack of available

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[122] While overall multilateral preferences may be eroding, tariff benefits for individual items are still quite significant. For example, the U.S. tariff on flashlights (eligible for duty-free access for all BDCs) is 12.5% *ad valorem*. Some GSP-eligible jewelry items have tariffs as high as 13.5%.

[123] Organisation for Economic Co-operation and Development, *Market Access for the Least-Developed Countries: Where are the Obstacles?* Published by World Trade Organization, WT/LDC/HL/19, October 21, 1997, Table 12, p. 47. The study estimated that in 1997, the loss in the Canadian market was approximately 71%, in the EU 26%, in Japan 34%, and in the United States, 50% (hereinafter OECD study).

[124] Sanchez Arnau, Juan C. *The Generalized System of Preferences and the World Trade Organization*, London: Cameron May, Ltd., 2002, p. 282.

[125] Alliance to End Hunger, et al. Letter to House Ways and Means and Senate Finance Chairs and Ranking Members, April 22, 2009. African Ambassador's Group Statement, May 13, 2013.

[126] Baldwin, R.E. and Murray, T. "MFN Tariff Reductions and Developing Country Trade Benefits Under the GSP," *Economic Journal* 87:345, March 1977, p. 46.

[127] OECD GSP Review, p. 27.

[128] Shushanik Hakobyan, "Accounting for Underutilization of Trade Preference Programs: The U.S. Generalized System of Preferences," August 2012, p. 1.

infrastructure (for example, undeveloped or damaged roads and ports that impede the efforts to get goods into the international market); developing countries' major products could be deemed import sensitive; or a combination of all of these factors.[129] One option for addressing these factors could be to provide assistance to GSP beneficiaries through U.S. trade capacity building efforts similar to those employed as part of AGOA.[130] The recent relatively long-term reauthorization of AGOA also encouraged beneficiary countries to develop utilization strategies.[131]

Trade as Foreign Assistance

No other U.S. trade preference program is more broadly based or encompasses as many countries as GSP. As a result, the program is supported by many observers who believe that it is an effective, low-cost means of providing economic assistance to developing countries. Supporters maintain that encouraging trade by private companies through the GSP program stimulates economic development much more effectively than intergovernmental aid and other means of assistance.[132] Economic development assistance through trade is a long-standing element of U.S. foreign policy, and other trade promotion programs such as AGOA and the Caribbean Basin Trade Partnership Act (CBTPA) are also based on this premise.

Conditionality of Preferences

Some supporters of GSP and other nonreciprocal programs assert that the conditions required (such as worker rights and IPR requirements) for GSP qualification provide the United States with leverage that can be used to promote U.S. economic and foreign policy goals and interests.[133] For example, after Bangladesh's suspension from GSP benefits in June 2013 due to worker rights and safety issues, officials in Bangladesh reportedly have been working closely with U.S. officials to address the shortcomings.[134]

In November 2013, the United States and Bangladesh signed a Trade and Investment Cooperation Forum Agreement (TICFA), through which the United States and Bangladesh agreed to more regularly work together to address issues of concern the trade and investment relationship. In September 2018, the last meeting of the TIFCA Council, officials on both sides pledged to deepen their engagement on these issues. However U.S. officials also expressed concerns regarding overall labor reforms and the need for Bangladesh to continue to collaborate with the private sector on worker safety.[135] The United States is also working with Bangladesh through

[129] U.S. Government Accountability Office. *International Trade: U.S. Trade Preference Programs Provide Important Benefits, But a More Integrated Approach Would Better Ensure that Programs Meet Shared Goals*. GAO 08-443, March 2008, pp. 53-55 (hereinafter 2008 GAO Report).

[130] For more information, see CRS Report R43173, *African Growth and Opportunity Act (AGOA): Background and Reauthorization*, by Brock R. Williams.

[131] AGOA was extended from September 30, 2015, to September 30, 2025, in Section 103 of P.L. 114-27.

[132] September 21, 2006, DC Bar meeting.

[133] The Coalition for GSP and the Trade Partnership. *The U.S. Generalized System of Preferences Program*, February 2013, p. 3, at http://tradepartnership.com/gsp/us-generalized-system-of-preferences/. See also http://renewgsptoday.com.

[134] Proclamation 8997 of June 27, 2013, "To Modify Duty-Free Treatment Under the Generalized System of Preferences, and for Other Purposes," 78 *Federal Register* 39949, July 2, 2013.

[135] U.S. Trade Representative, "United States and Bangladesh Hold 4rd Trade and Investment Cooperation Forum Agreement Council Meeting," press release, September 2018. "Bangladesh's Best Days are Ahead, says USTR," *bdnews24.com*, May 19, 2017, https://bdnews24.com/business/2017/05/19/bangladeshs-best-days-are-ahead-says-ustr.

engagement in a "Sustainability Compact," a multi-government approach that also involves the governments of the EU and Canada, as well as the International Labor Organization (ILO), "to promote continuous improvements in labor rights and factory safety in the Ready Made Garment and Knitwear Industry in Bangladesh." The last review of the compact also took place in July 2018. The compact members noted that more work needed to be done in terms of aligning Bangladesh's labor legislation with international labor conventions and implementation.[136]

Lower Costs of Imports

U.S. businesses that import components, parts, or materials duty-free under the GSP maintain that the preference results in lower costs for these intermediate goods which, in turn, can make U.S. firms more competitive, and the savings can be passed on to consumers. These supporters assert that GSP is as important for many domestic manufacturers and importers as for the countries that receive preferential access for their products.[137]

Even though most U.S. producers are shielded to a certain extent by CNLs and the exclusion of import-sensitive products from GSP eligibility, U.S. manufacturers and workers are still sometimes adversely affected by GSP imports. Some of these companies have petitioned for elimination of specific products from GSP eligibility.[138] For example, in 2010, Exxel Outdoors, a U.S. company that manufactures certain non-down sleeping bags, petitioned for their removal from GSP eligibility, claiming that their business operations were being harmed by imports of duty-free sleeping bags from Bangladesh under the GSP program.[139] These sleeping bag categories were ultimately removed from GSP duty-free treatment in January 2012.[140]

Options for Congress

In previous years, some Members have suggested various reforms of the GSP program. Possible options include supporting reciprocal tariff and market access benefits through FTAs, renewing the GSP for least-developed beneficiaries only, extending the program in a modified form, or letting the program lapse altogether.

Although the GSP is a nonreciprocal tariff preference, any changes to the program may need to be considered in light of the requirements of the WTO Enabling Clause, as it has been interpreted by the WTO Appellate Body. At a minimum, the United States may need to notify—and possibly consult with—other WTO members regarding any withdrawal or modification of GSP benefits, as required by paragraph 4 of the Enabling Clause.[141] The United States could also pursue a WTO waiver were any modifications of the GSP program considered not to comport fully with U.S. WTO obligations

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[136] European Commission, *Implementation of the Bangladesh Compact – Technical Status Report, September 2018*, https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157426.pdf.

[137] Coalition for GSP, "American Companies Frustrated by Congress' Inability to Renew Generalized System of Preferences Program," press release, August 1, 2013, http://renewgsptoday.com/.

[138] 19 U.S.C. §2463(c).

[139] "Sleeping Bags Removed from GSP after USTR Administrative Review," *Inside U.S. Trade*, January 5, 2012.

[140] 77 *Federal Register* 1549, January 10, 2012.

[141] Paragraph 4 states that any contracting party that grants a preferential program and seeks to modify or withdraw it must notify the other contracting parties, give them adequate time and opportunity to discuss any difficulties, and help them to reach satisfactory solutions. See http://www.wto.org/english/docs_e/legal_e/enabling1979_e.htm.

Negotiate Trade Agreements with GSP Countries

Some U.S. policymakers have suggested that some developing countries might benefit more through WTO multilateral negotiations, FTAs, or some form of agreement that could also provide reciprocal trade benefits and improved market access for the United States.[142] Arguably, this was one of the policy arguments for the EU's pursuit of Economic Partnership Agreements with many of its former GSP beneficiaries. Since tariff concessions under these agreements would probably apply to more sectors of the economy than GSP, such agreements could increase the likelihood of across-the-board economic stimulation in developing countries. Each one of the United States' current FTA partners, with the exception of Canada and Australia, was at one time a beneficiary of the GSP program.[143]

Authorize GSP Only for Least-Developed Countries

Some in Congress have expressed the possibility of modifying the GSP so that the benefits apply primarily to least-developed beneficiaries.[144] Assuming that many least-developed African beneficiaries[145] would continue to receive the GSP preference under AGOA, other LDCs that might benefit from an LDC-only GSP program are Afghanistan, Bhutan, Burma, Burundi, Cambodia, Congo (Kinshasa), Haiti,[146] Kiribati, Mauritania, Nepal, Samoa, Somalia, South Sudan, the Solomon Islands, Timor-Leste, Tuvalu, and Vanuatu.[147] Of these countries, in 2018, the LDCs that made the most use of the GSP program by value were Cambodia ($737 million), Burma ($117 million), Congo (Kinshasa, $20 million), Nepal ($9 million), the Solomon Islands ($3 million), Samoa ($2 million), Burundi ($2 million), Afghanistan ($1 million), and Haiti ($1 million).[148] U.S. efforts through trade capacity building could help LDCs take greater advantage of the preference.

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[142] For example, then-USTR Froman indicated that he favored negotiating an FTA with South Africa on July 29 and 30, 2014. See *Inside U.S. Trade*, "Froman Signals Interest in 'Reciprocal' Trade Arrangement with South Africa," July 31, 2014.

[143] Some U.S. FTA partners were GSP beneficiaries at the time FTA implementing legislation was enacted. Singapore and South Korea were graduated from GSP in 1989, and thus were not GSP beneficiaries at the time the United States implemented their respective FTAs. Israel retained GSP status until 1995, and Jordan still enjoys GSP status. Implementing language for all other FTAs contained language similar to "the President shall terminate the designation of ... as a beneficiary developing country for the purposes of title V of the Trade Act of 1974 on the date of entry into force of the Agreement."

[144] U.S. Congress, Senate Committee on Finance, *The African Growth and Opportunity Act at 14: The Road Ahead*, 113th Cong., 2nd sess., July 30, 2014. In the question and answer session, Senate Finance Committee Chair Wyden asked USTR Froman, " ... Is it time for Congress and the Administration to consider whether countries like India, Thailand, Brazil and Turkey are also ready to graduate from the Generalized System of Preferences program?"

[145] The least-developed GSP countries that also benefit from AGOA (as of September 2019) are: Angola, Benin, Burkina Faso, Central African Republic, Chad, Comoros, Congo (Kinshasa), Djibouti, Ethiopia, The Gambia, Guinea, Guinea-Bissau, Lesotho, Liberia, Madagascar, Malawi, Mali, Mozambique, Niger, Rwanda, Sao Tome and Principe, Senegal, Sierra Leone, Tanzania, Togo, Uganda, and Zambia.

[146] Haiti was provided additional unilateral preferences through the Haiti Economic Lift Act of 2010 (P.L. 111-171).

[147] Burundi, Congo (Kinshasa), Mauritania, Somalia, South Sudan, and Zimbabwe are not designated as beneficiary AGOA countries in 2019, but retain their GSP eligibility.

[148] International Trade Commission Trade Dataweb (http://dataweb.usitc.gov). Trade figures are for least-developed GSP beneficiaries using 2017 annual data.

Reform GSP

Congress could modify the GSP, as it applies to all BDCs. Some of these options could have the effect of expanding the GSP program, while others could serve to restrict its application. Below are some examples of potential modifications.

Expand Application of GSP

Were Congress to expand or enhance application of the GSP, the following options could be considered:

- Expand the list of tariff lines permitted duty-free access. Allow some import-sensitive products to receive preferential access.[149]
- Increase flexibility of rules of origin requirements. For example, allow more GSP beneficiaries to cumulate inputs with other beneficiaries to meet the 35% domestic content requirement.[150]
- Eliminate competitive need limitations for BDCs, or raise the thresholds that trigger them.
- Reauthorize GSP for longer terms or make the program permanent.

Restrict Application of Preferences

The following is a list of possible approaches if Congress desired to extend the program but restrict imports under GSP:

- Consider mandatory graduation for "middle income" countries, similar to EU GSP changes, or strengthen the language giving the President authority to graduate countries based on competitiveness.
- Reconsider criteria for graduation of countries from GSP or direct greater enforcement of the eligibility criteria.
- Strengthen provision that allows graduation of individual industry sectors within beneficiary countries.
- Modify the rule-of-origin requirement for qualifying products to require that a greater percentage of the direct costs of processing operations (currently 35%) originate in beneficiary developing countries.[151]
- Lower the threshold at which the President may (or must) withdraw, suspend, or limit the application of duty-free treatment of certain products (CNLs).[152]
- Require the President to more frequently and actively monitor (currently an annual process) the economic progress of beneficiary countries, as well as compliance with GSP criteria.

[149] For example, sections 202 and 204 of P.L. 114-27 permitted duty-free access to certain textile articles and travel goods.

[150] 2008 GAO Report, p. 75. The GSP, at present, allows only specifically designated "associations of countries," (e.g., the Member Countries of the West African Economic and Monetary Union (WAEMU)) to combine inputs to reach the 35% threshold.

[151] 19 U.S.C. §2463(a)(2)(A)(ii)(II). The statute further specifies that a product may be made in one BDC or any two or more such countries that are members of the same designated association of countries. For beneficiary countries under AGOA, this percentage may also include up to 15% (as to value) of U.S. origin (19 U.S.C. §2466a(b)(2)).

[152] 19 U.S.C. §2463(c).

Appendix A. GSP Implementation and Renewal

Table A-1. GSP Implementation and Renewal, 1974-2015

Public Law	Effective Date	Date Expired	Notes
P.L. 93-618, Title V, Trade Act of 1974	January 2, 1975	January 2, 1985	Statute originally enacted.
P.L. 98-573, Title V, Trade and Tariff Act of 1984	October 30, 1984	July 4, 1993	Substantially amended and restated.
P.L. 103-66, Section 13802 (in Omnibus Budget Reconciliation Act, 1993)	August 10, 1993	September 30, 1994	Extended retroactively from July 5, 1993, to August 10, 1993. Also struck out reference to "Union of Soviet Socialist Republics."
P.L. 103-465, Section 601 Uruguay Round Agreements Act	December 8, 1994	July 31, 1995	Extended retroactively from September 30, 1994, to December 8, 1994. No other amendments to provision.
P.L. 104-188, Subtitle J, Section 1952 GSP Renewal Act of 1996 (in Small Business Job Protection Act of 1996)	October 1, 1996 (for GSP renewal only)	May 31, 1997	Substantially amended and restated. Extended retroactively from August 1, 1995, to October 1, 1996.
P.L. 105-34, Subtitle H, Section 981 (in Taxpayer Relief Act of 1997)	August 5, 1997	June 30, 1998	Extended retroactively from May 31, 1997, to August 5, 1997. No other amendments to provision.
P.L. 105-277, Subtitle B, Section 101 (in Omnibus Consolidated and Emergency Supplemental Appropriations, 1999)	October 21, 1998	June 30, 1999	Extended retroactively from July 1, 1998, to October 21, 1998. No other amendments to provision.
P.L. 106-170, Section 508, (in Ticket to Work and Work Incentives Act of 1999)	December 17, 1999	September 30, 2001	Extended retroactively from July 1, 1999, to December 17, 1999. No other amendments to provision.
P.L. 107-210, Division D, Title XLI Trade Act of 2002	August 6, 2002	December 31, 2006	Extended retroactively from September 30, 2001, to August 6, 2002. Amended to (1) include requirement that BDCs take steps to support efforts of United States to combat terrorism and (2) further define the term "internationally recognized worker rights."
P.L. 109-432, Title VIII	December 31, 2006	December 31, 2008	Extended before program lapse.
P.L. 110-436, Section 4	October 16, 2008	December 31, 2009	Extended before program lapse.
P.L. 111-124	December 28, 2009	December 31, 2010	Extended before program lapse.

Public Law	Effective Date	Date Expired	Notes
P.L. 112-40	November 5, 2011	July 31, 2013	Extended retroactively from December 31, 2010, to November 5, 2011.
P.L. 114-27, Title II	July 29, 2015	December 31, 2017	Extended retroactively from July 31, 2013, to July 29, 2015.
P.L. 115-141, Division M, Title V	April 22, 2018	December 31, 2020	Extended retroactively from January 1, 2018, to April 22, 2018.

Source: CRS analysis using Congress.gov, http://www.congress.gov.

Appendix B. GSP Beneficiary Countries

Table B-1. Beneficiary Developing Countries and Regions for Purposes of the Generalized System of Preferences

(as of October 2019)

Independent Countries			
Afghanistan $^{A+}$	Ecuador	Liberia $^{A+}$	Serbia
Albania	Egypt	North Macedonia	Sierra Leone $^{A+}$
Algeria	Eritrea	Madagascar $^{A+}$	Solomon Islands $^{A+}$
Angola $^{A+}$ Argentina	Ethiopia $^{A+}$	Malawi $^{A+}$	Somalia $^{A+}$
Armenia	Fiji	Maldives	South Africa
Azerbaijan	Gabon	Mali $^{A+}$	South Sudan $^{A+}$
Belize	Gambia, The $^{A+}$	Mauritania $^{A+}$	Sri Lanka
Benin $^{A+}$	Georgia	Mauritius	Suriname
Bhutan $^{A+}$	Ghana	Moldova	Swaziland
Bolivia	Grenada	Mongolia	Tanzania $^{A+}$
Bosnia and Hercegovina	Guinea^{A+}	Montenegro	Thailand
Botswana	Guinea-Bissau^{A+}	Mozambique $^{A+}$	Timor-Leste $^{A+}$
Brazil	Guyana	Namibia	Togo $^{A+}$
Burkina Faso $^{A+}$	Haiti $^{A+}$	Nepal $^{A+}$	Tonga
Burma $^{A+}$	Indonesia	Niger $^{A+}$	Tunisia
Burundi $^{A+}$	Iraq	Nigeria	Tuvalu $^{A+}$
Cambodia $^{A+}$	Jamaica	Pakistan	Uganda $^{A+}$
Cameroon	Jordan	Papua New Guinea	Ukraine
Cape Verde	Kazakhstan	Paraguay	Uzbekistan
Central African Republic^{A+}	Kenya	Philippines	Vanuatu $^{A+}$
Chad $^{A+}$	Kiribati^{A+}	Republic of Yemen $^{A+}$	Zambia $^{A+}$
Comoros $^{A+}$	Kosovo	Rwanda $^{A+}$	Zimbabwe
Congo (Brazzaville)	Kyrgyzstan	Saint Lucia	
Congo (Kinshasa) $^{A+}$	Lebanon	Saint Vincent and the Grenadines	
Cote d'Ivoire	Lesotho $^{A+}$	Samoa $^{A+}$	
Djibouti $^{A+}$		Sao Tome and Principe $^{A+}$	
Dominica		Senegal $^{A+}$	

Nonindependent Countries and Territories Eligible for GSP Benefits		
Anguilla	Heard Island and McDonald Islands	Tokelau
British Indian Ocean Territory	Montserrat	Virgin Islands, British
Christmas Island (Australia)	Niue	Wallis and Futuna
Cocos (Keeling) Islands	Norfolk Island	West Bank and Gaza Strip
Cook Islands	Pitcairn Islands	Western Sahara
Falkland Islands (Islas Malvinas)	Saint Helena	

Associations of Countries (treated as one country)		
Member Countries of the Cartagena Agreement (Andean Group) Bolivia Ecuador	**Member Countries of the West African Economic and Monetary Union (WAEMU)** Benin Burkina Faso Cote d'Ivoire Guinea-Bissau Mali Niger Senegal Togo	**Qualifying Member Countries of the Association of South East Asian Nations (ASEAN)** Burma Cambodia Indonesia Philippines Thailand
Qualifying Member Countries of the Southern Africa Development Community (SADC) Botswana Mauritius Tanzania	**Qualifying Member Countries of the South Asian Association for Regional Cooperation (SAARC)** Afghanistan Bangladesh Bhutan India Nepal Pakistan Sri Lanka	**Qualifying Member Countries of the Caribbean Common Market (CARICOM)** Belize Dominica Grenada Guyana Jamaica Montserrat Saint Lucia Saint Vincent and the Grenadines

Source: Harmonized Tariff Schedule of the United States, 2017, Revision 1, July 2017.

Note: "A+" indicates least-developed countries.

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