

ENVIRONMENTAL
STANDARDS AND
THE GSP:
A PROPOSAL

NOVEMBER 2009

The following organizations helped to develop this report and its conclusions:



Center for International Environmental Law | Defenders of Wildlife | Dēmos | Earthjustice | Environmental Investigation Agency | Friends of the Earth | Sierra Club

Dēmos and the **Sierra Club** drafted the report.

Cristina Vasile and David Callahan of Dēmos were the report's main authors.

TABLE OF CONTENTS

Introduction	1
What is the GSP?	1
Who Benefits from the GSP? What are the Eligibility Criteria?	1
What Products Are Covered by the GSP?	2
Including Environmental Criteria in the GSP	3
New Criteria	3
Determining Compliance	4
Implementation	5
Coordination with Other GSP Granting Nations	6
Trade and the Environment in Europe—the GSP+ Program	7
Appendix A: GSP Beneficiary Countries	8
Appendix B: Eligibility Criteria	9
Appendix C: Eligible Products	11
Appendix D: GSP Legislation	13
Endnotes	14

INTRODUCTION

The United States has long granted trade preferences to developing countries that meet various criteria. These criteria, which are stipulated by the Generalized System of Preferences (GSP), have changed with time—reflecting U.S. economic and foreign policy priorities. While the criteria include non-support for terrorism, enforcement of intellectual property rights, and respect for internationally recognized worker rights, the GSP does not include an environmental provision. With the current U.S. GSP program set to expire at the end of December and environmental issues taking on growing urgency, now is the time to correct that omission.

Rather than help the global community fight climate change, our current trade rules have institutionalized harmful and unsustainable production and consumption patterns globally. These rules have allowed companies to move operations to wherever labor and environmental standards are weakest, abandoning communities and workers in the U.S. and wreaking havoc abroad.¹ The American public has come to expect U.S. trade policies to advance the goal of environmental protection—and also to ensure that American workers are competing on a level playing field with other countries—and the GSP should be updated to reflect these concerns. Including environmental criteria in the GSP will align this program with the U.S.’s broader trade policy, which has given environmental issues increased attention in the context of recent bilateral agreements.

The climate change crisis, and the prospect of a new multilateral agreement to address this crisis, adds greater urgency to the task of updating the GSP. New environmental criteria in the GSP (and indeed in all trade preference programs) will give developing countries added encouragement to uphold a new climate change treaty, as well as other key multilateral environmental agreements (MEAs). It will provide much needed support for environmentalists in developing countries where steps toward sustainable development may not be popular or seen as necessary. Amending the GSP will send a strong message

to the international community that the United States is serious about protecting the environment and is ready to take action to do so.

What is the GSP?

The Generalized System of Preferences was first suggested in 1968 by the United Nations Conference on Trade and Development (UNCTAD). UNCTAD advocated for a system in which industrialized nations would grant trade preferences to developing nations in order to promote development by increasing trade. In 1971, parties to the General Agreement on Tariffs and Trade (GATT) approved the creation of a waiver to the Most-Favored Nation (MFN) clause of the agreement. The MFN principle obligates World Trade Organization (WTO) member countries to treat the imports of all other WTO member countries no worse than they treat the imports of their “most favored” trading partner. In 1979, the “enabling clause” was adopted into the GATT which created the legal framework for the Generalized System of Preferences and provided developed countries with the ability to establish individual GSP schemes without coming into violation of WTO regulations.

The U.S. GSP program was created by Congress in the Trade Act of 1974 (19 USC 2461 et seq.) and was instituted on January 1, 1976. The program provides preferential duty-free treatment for approximately 3,400 products from 131 designated beneficiary countries (BDC) and an additional 1,400 products for 44 least-developed beneficiary countries (LDBC).

Who Benefits from the GSP? What are the Eligibility Criteria?

Just over half of all U.S. trading partners in 2008 are GSP beneficiary developing countries (BDC).² Not all developing countries are eligible to participate in the GSP program. China, for example, is ineligible. Additionally, countries that could otherwise be eligible must also comply with a list of GSP eligibility

criteria (both mandatory and discretionary) which may preclude a developing or least developed country from becoming a GSP beneficiary.³ These criteria have changed over time, reflecting U.S. economic and global priorities, though many have been a part of the program for decades. Currently, a developing country is not eligible for GSP benefits if it has a communist government, has supported individuals or groups that have committed acts of terrorism, has not taken steps to adhere to internationally recognized worker rights, or has not taken necessary steps to eliminate the worst forms of child labor.⁴

The President may also consider the other discretionary factors in deciding whether a country is eligible for GSP, such as the extent to which the country has assured the United States that it will provide “equitable and reasonable” access to its markets; the extent “to which the country is providing adequate and effective protection of intellectual property rights;” and the extent to which “the country has taken steps to reduce trade-distorting investment practices and policies and services trade barriers.”⁵

What Products Are Covered by the GSP?

GSP preferences are available for a total of nearly 5,000 products (3,400 for all BDCs and an additional 1,400 for LDBC). This represents about one third of all products imported into the United States. Most “simple manufactures” such as textiles, leather goods, ceramics, glass and steel are excluded from GSP coverage due to claims by domestic producers that they would not be able to compete with large amounts of imports.⁶

The GSP program has a rule of origin regulations to ensure that only goods produced by BDCs receive duty-free treatment. In addition, the United States also establishes quotas for certain products.

INCLUDING ENVIRONMENTAL CRITERIA IN THE GSP

Trade policy is one means by which the United States expresses its values and advances both foreign and domestic policy goals. The evolution of the GSP criteria has reflected this and revising the GSP to include environmental criteria would be consistent with the law's history and intent. The stated purpose of the GSP is to promote development and sustainability. Protecting the environment is a key component of both of these. Also, while environmental degradation is a global issue, it hits developing countries the hardest.

Amending the GSP to include environmental criteria could not be more timely, amid rising alarms about climate change, the extinction of species, and other grave environmental issues. Increasingly, preserving the planet's eco-system is becoming both a major domestic and global priority for the United States. Trade policies should be updated to reflect this goal.

This is already happening. Bilateral U.S. trade agreements have included progressively stronger environmental provisions. The intent of the provisions is not just to strengthen environmental protections by U.S. trading partners, but also to reassure American citizens and workers that these partners are not cutting ecological corners as they compete with the United States. Such provisions provide important leverage for environmentalists in developing countries as they fight entrenched interests. But, of course, bilateral trade agreements cover only a limited number of countries. Including environmental provisions in the GSP would greatly reinforce the ways that trade policy supports the U.S.'s environmental goals.

The EU has already taken steps to include environmental criteria in its GSP system, although this takes a different form than what we propose here. Despite these differences, the two programs have one important point in common: trade policy is a powerful tool to motivate developing countries to comply with environmental standards. (See breakout box.)

New Criteria

The goal of new environmental criteria in trade preference programs is to promote improved environmental stewardship that will facilitate sustainable development. This should be achieved by requiring BDCs to live up to their obligations under important multilateral environmental agreements and to help countries who have not yet signed or ratified these agreements to do so within a reasonable time frame. The enabling clause which laid the international legal framework for the GSP intended the preference program to promote development. Including environmental considerations in the GSP is a way to ensure that such development does not come at the expense of the environment, and is thus truly sustainable, particularly with respect of environmental issues of common concern of humanity addressed in multilateral environmental agreements.

In the absence of a set of internationally agreed upon environmental standards (akin to the internationally recognized worker rights currently included as a criteria in the U.S. GSP program), enforcement of domestic environmental laws, and international environmental obligations is used as a benchmark.⁹ The United States should provide adequate technical and capacity building assistance, as well as financial assistance for countries that are unable to bring themselves into compliance with the new criteria.

The revised GSP statute would stipulate as a mandatory provision that developing countries must adhere to the following criteria in order to be eligible for GSP treatment:

A GSP beneficiary may not fail to effectively enforce its environmental laws, and its laws, regulations, and other measures to fulfill its international environmental obligations.

These legal obligations (both domestic and international) together aim to protect the very fabric of the planet's ecology and address different dimensions of this urgent challenge. They deal with issues ranging from climate change and protection of the ozone layer, to protecting endangered species.

Access to the world's largest market will provide a major new incentive for developing countries to enforce the MEAs that they are a party to, as well as their own domestic environmental laws. As detailed in the following section, the U.S. GSP program can help enhance compliance with these agreements.

Determining Compliance

While determining whether countries meet the new environmental criteria of the GSP will be challenging, it is an important objective, and one that is certainly achievable. The enforcement provisions already included in the GSP provide a useful tool to enhance monitoring efforts and these provisions can be strengthened further.

Currently, the eligibility criteria of the GSP, such as in the area of labor standards, are enforced through a petition system. That is, any person can petition the United States government to remove the trade preferences granted to a BDC based on its violation of GSP criteria. Every year, eligibility issues are reviewed by the Trade Policy Staff Committee (TPSC) during the Annual GSP Product and Country Eligibility Review. The TPSC is made up of trade practices experts from 19 different government agencies, including departments related to environmental standards (i.e., the Council on Environmental Quality, Department of Agriculture, Department of Energy, Environmental Protection Agency). The inclusion of these departments as members of the TPSC means that it is in a good position to judge the relevance of potential environmental petitions, and adequately assess the eligibility of countries in this area.

A number of improvements can further enhance the petition process, making it more accessible and transparent. Petitions should be accepted throughout the year rather than in limited filing windows as is currently the case. Furthermore, clear timelines should be established for the review and investigation processes. Another important reform is the acceptance of both country and sector-based petitions. That is, environmental standards that are being bro-

ken in one sector should not necessarily mean that the entire country loses its GSP privileges. Limitation or suspension of GSP privileges should be applicable by sector as well as by country. Finally, countries found in violation of environmental criteria should have the opportunity to develop a one year remediation plan rather than suffer immediate loss of preferences. All final decisions should be in writing and be made public.

Enforcement of environmental standards should focus largely on compliance, as determined by receipt of petitions. The United States should work with countries that are named in petitions to establish National Plans of Action and help bring them into compliance with the GSP criteria.

Including environmental standards in the GSP Program, and thus bringing MEAs into the petition system will help to enforce compliance with those agreements by empowering a range of actors to draw attention to compliance failures. This is especially helpful for countries that may need additional outside assistance in enforcing their environmental laws. Often, the desire to comply with these agreements is there but capacity to do so is not.

What will happen to countries that are currently granted GSP preferences but do not meet the new environmental standards?

The objective of preference programs is to expand trade and enhance development. Thus, including environmental criteria in the GSP is not intended to lead to the exclusion of beneficiary countries from preferential treatment. Rather, eligibility criteria are meant as a way to help ensure that expanded trade can actually promote development, instead of provoking a race to the bottom through poor labor and environmental standards. The ultimate aim of these new standards is to help improve environmental conditions in developing countries while still helping them to expand trade.

A phase-in period will be established during which countries that received GSP benefits prior to the revised environmental criteria going into effect would be allowed a set period of time during which they must bring their actions into accordance with those standards. This transition phase will include capacity building and technical support as well as financial assistance.

Least developed countries will be allowed more time to come into compliance with the new standards. Failure to comply with the environmental criteria will be examined on a case by case basis. The United States (through the TPSC) will work with these countries to develop National Plans of Action, and provide financial assistance if necessary to assist in reaching environmental standards. LDCs that work with the U.S. to develop these National Plans and then work to implement them will continue to be granted GSP preferences.

How will developing countries meet the costs associated with compliance with environmental standards?

The initial phase-in period will be accompanied by adequate technical and capacity building assistance, as well as financial assistance for countries that are unable to bring themselves into compliance with the new environmental criteria.

Furthermore, most of the major multilateral environmental agreements are supported by financial mechanisms through the agreement themselves. That is, developing countries are afforded financial assistance to meet compliance standards when they sign/ratify the treaty itself. For example, as part of the Montreal Protocol, a Multilateral Fund was set up to assist developing countries whose annual per capita consumption and production of ozone depleting substances (ODS) is less than 0.3 kg to comply with the control measures of the Protocol. Currently, 146 of the 194 Parties to the Montreal Protocol meet these criteria. The fund is financed by 49 industrialized countries (including some countries with economies in transition).¹⁰ The Global Environmental Facility (GEF) provides funding for de-

veloping nations to meet their obligations under the Stockholm Convention, Convention on Biological Diversity, Cartagena Protocol on Biosafety and the UN Framework on Climate Change Convention.¹¹ CITES largely relies on funding from governments, international agencies and the private sector, but generally does not provide substantial assistance for developing nations.

Countries that make reasonable strides towards compliance but cannot realistically be expected to meet the environmental standards without additional financial assistance (beyond that which is provided through the individual agreement), will be provided a grace period during which they will be given provisional preferential treatment. These provisional preferences will be granted at the discretion of the TPSC, with ultimate authority given to the USTR.

Implementation

The U.S. GSP is set to expire on December 31, 2009. This means that unless Congress passes legislation to renew it, the U.S. Customs and Border Protection will begin to collect duties on imports from GSP countries on January 1, 2010. Ideally, Congress would renew the GSP program with these additional environmental standards before the legislation expires at the end of this year. However, more often than not the GSP has been allowed to expire and then is later renewed retroactively.¹² This places developing countries at a huge financial disadvantage, especially in light of the current economic downturn. If the GSP is allowed to expire, BDCs will be forced to pay customs duties on exports to the United States starting January 1, 2010. Although these funds would be returned retroactively when the program is ultimately renewed, this places a large financial burden on firms in these poor countries. Uncertainty about the renewal of GSP can have the effect of discouraging its use because it makes sourcing plans uncertain and potentially costly. Furthermore, while exporters may be reimbursed for the duties accrued, American consumers are not reimbursed for the higher costs of imported goods.

Coordination with Other GSP Granting Nations

The United States should not be alone in requiring environmental standards to be met as a condition for GSP eligibility. A multilateral effort would not only be much more effective but it would also send a strong message that maintaining the integrity of the environment is a vital component of development, and needs to be more adequately addressed.

There are currently 13 national GSP schemes in place according to the UNCTAD secretariat. The following countries grant GSP preferences: Australia, Belarus, Bulgaria, Canada, Estonia, the European Union, Japan, New Zealand, Norway, the Russian Federation, Switzerland, Turkey and the United States of America. The U.S. GSP system is by far the most conditional. That is, the U.S. system contains the most stringent criteria for eligibility (not including the EU's GSP + program).¹³ No other GSP programs include any type of environmental standards. In fact, excluding the EU, no other GSP programs even include labor standards.

It is time to revisit the GSP concept to create stronger multilateral coordination. The recent focus on the climate change crisis has highlighted the need

for the international community to work together on environmental issues, and such coordination must extend into the trade arena. The framework for re-examining the GSP at a multilateral level exists through the WTO. One option to enhance multilateral action on environmental standards (as well as important labor standards) is to revise the 1979 Enabling Clause that authorized the creation of national GSP programs to include these criteria.

Stronger efforts need to be made on a multilateral basis to help build capacity so that developing countries are financially able to comply with international environmental agreements. Initiatives such as the Multilateral Fund, established as part of the Montreal Protocol to provide financial assistance to developing countries, are a good model. A more comprehensive approach would be to establish a Global Environmental Organization (GEO) to take charge of monitoring and implementation of all MEAs. Such an institution would be a welcome addition to the current global environmental regime which lacks a central force to establish a cohesive international environmental framework.

Trade and the Environment in Europe—the GSP+ Program

In addition to its regular GSP, the EU offers a special preference program designed to support vulnerable developing countries in the ratification and implementation of certain international conventions in the fields of human rights, core labor standards, sustainable development and good governance. This program is formally called the special incentive arrangement for Sustainable Development and Good Governance, but is more commonly referred to as the GSP+ program.

In order to qualify, any GSP+ beneficiary country must be considered “vulnerable” in terms of its size or the limited diversification in its exports. Poor diversification and dependence is defined as meaning that the five largest sections of its GSP-covered imports to the Community must represent more than 75 percent of its total GSP-covered imports. GSP-covered imports from that country must also represent less than 1% of total EU imports under GSP. In addition to these criteria, countries must ratify and implement 27 international conventions to be accepted into the program.⁷

Of the 27 specified international conventions, the following are environmental conventions that qualified countries must be a party to:

- » Montreal Protocol on Substances that Deplete the Ozone Layer;
 - » Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal;
 - » Stockholm Convention on Persistent Organic Pollutants;
 - » Convention on International Trade in Endangered Species;
 - » Convention on Biological Diversity;
 - » Cartagena Protocol on Biosafety; and
 - » Kyoto Protocol to the UN Framework Convention on Climate Change.
- » For the period 2009-2011, 16 beneficiary countries qualified to receive these special preferences.⁸

The EU’s GSP+ system is different from our proposal in two key ways. First, the GSP+ arrangement is an additional preference program. That is, the EU GSP scheme has three separate tracks: the standard GSP, the GSP Plus and the Everything But Arms arrangement. Our proposal advocates for a revision of the U.S. standard GSP not the establishment of an additional scheme. Second, the EU GSP+ program applies only to “vulnerable” countries, while our proposal applies to any developing country that meets the remaining mandatory/discretionary GSP criteria.

APPENDIX A: GSP BENEFICIARY COUNTRIES

GSP-Eligible Beneficiaries

Independent Countries

The following independent countries are GSP-Eligible Beneficiaries (BDCs):

Afghanistan	Costa Rica	Kenya	St. Kitts and Nevis
Albania	Cote d'Ivoire	Kiribati	Saint Lucia
Algeria	Croatia	Kyrgyzstan	Saint Vincent and the Grenadines
Angola	Djibouti	Lebanon	Samoa
Antigua & Barbuda	Dominica	Lesotho	Sao Tome and Principe
Argentina	Dominican Republic	Macedonia, Former Yugoslav Republic of	Senegal
Armenia	Ecuador	Madagascar	Serbia and Montenegro
Bahrain	Egypt	Malawi	Seychelles
Bangladesh	El Salvador	Mali	Sierra Leone
Barbados	Equatorial Guinea	Mauritania	Solomon Islands
Belize	Eritrea	Mauritius	Somalia
Benin	Ethiopia	Molodva	South Africa
Bhutan	Fiji	Mongolia	Sri Lanka
Bolivia	Gabon	Morocco	Suriname
Bosnia and Hercegovinia	Gambia, The	Mozambique	Swaziland
Botswana	Georgia	Namibia	Tanzania
Brazil	Ghana	Nepal	Thailand
Bulgaria	Grenada	Niger	Togo
Burkina Faso	Guatemala	Nigeria	Tonga
Burundi	Guinea	Oman	Trinidad and Tobago
Cambodia	Guinea-Bissau	Pakistan	Tunisia
Cameroon	Guyana	Panama	Turkey
Cape Verde	Haiti	Papua New Guinea	Tuvalu
Central African Republic	Honduras	Paraguay	Uganda
Chad	India	Peru	Uruguay
Columbia	Indonesia	Philippines	Uzbekistan
Comoros	Iraq	Romania	Vanatu
Congo (ROC)	Jamaica	Russia	
Congo (DROC)	Jordan	Rwanda	
	Kazakhstan		

Non-Independent Countries & Territories:

The following non-independent countries and territories are GSP-Eligible Beneficiaries:

Anguilla	Falkland Islands (Islas Malvinas)	Norfolk Island	Wallis and Futuna
British Indian Ocean Territory	Gibraltar	Pitcairn Islands	West Bank and Gaza Strip
Christmas Island (Australia)	Heard Island and McDonald Islands	Saint Helena	Western Sahara
Cocos (Keeling) Islands	Montserrat	Tokelau	
Cook Islands	Nive	Turks and Caicos Islands	
		Virgin Islands, British	

Least-Developed Beneficiary Developing Countries

The least developed beneficiary developing countries (LDBDCs) are as follows:

Afghanistan	Chad	Lesotho	Sierra Leone
Angola	Comoros	Madagascar	Somalia
Bangladesh	Congo (DROC)	Malawi	Tanzania
Benin	Djibouti	Mali	Togo
Bhutan	Equatorial Guinea	Mauritania	Tuvalu
Burkina Faso	Ethiopia	Mozambique	Uganda
Burundi	Gambia, The	Nepal	Vanuatu
Cambodia	Guinea	Niger	Republic of Yemen
Cape Verde	Guinea-Bissau	Rwanda	Zambia
Central African Republic	Haiti	Samoa	
	Kiribati	Sao Tome and Principe	

Source: USTR GSP Guidebook, February 2009.

APPENDIX B: ELIGIBILITY CRITERIA (ACTUAL TEXT OF STATUTE)

The President shall not designate any country a beneficiary developing country under this subchapter if any of the following applies:

- (A) Such country is a Communist country, unless—
 - (i) the products of such country receive nondiscriminatory treatment,
 - (ii) such country is a WTO Member (as such term is defined in section 3501(10) of this title) and a member of the International Monetary Fund, and
 - (iii) such country is not dominated or controlled by international communism.
- (B) Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

- (i) to withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and
 - (ii) to cause serious disruption of the world economy.
- (C) Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.
- (D)(i) Such country—
 - (I) has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens,
 - (II) has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or
 - (III) has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless clause (ii) applies.
- (D)(ii) This clause applies if the President determines that—
 - (I) prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to in clause (i),
 - (II) good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country described in clause (i) is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or
 - (III) a dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.
- (E) Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.
- (F) Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 2405(j)(1)(A) of title 50, Appendix.

(G) Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

(H) Such country has not implemented its commitments to eliminate the worst forms of child labor.

Subparagraphs (D), (E), (F), (G), and (H) (to the extent described in section 2467(6)(D) of this title) shall not prevent the designation of any country as a beneficiary developing country under this subchapter if the President determines that such designation will be in the national economic interest of the United States and reports such determination to the Congress with the reasons therefore.

(c) Factors affecting country designation

In determining whether to designate any country as a beneficiary developing country under this subchapter, the President shall take into account—

- (1) an expression by such country of its desire to be so designated;
- (2) the level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;
- (3) whether or not other major developed countries are extending generalized preferential tariff treatment to such country;
- (4) the extent to which such country has assured the United States that it will provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;
- (5) the extent to which such country is providing adequate and effective protection of intellectual property rights;
- (6) the extent to which such country has taken action to—
 - (A) reduce trade distorting investment practices and policies (including export performance requirements); and
 - (B) reduce or eliminate barriers to trade in services; and
- (7) whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

APPENDIX C: ELIGIBLE PRODUCTS (ACTUAL TEXT OF STATUTE)

(1) Import-sensitive articles

The President may not designate any article as an eligible article under subsection (a) of this section if such article is within one of the following categories of import-sensitive articles:

- (A) Textile and apparel articles which were not eligible articles for purposes of this subchapter on January 1, 1994, as this subchapter was in effect on such date.
- (B) Watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material

injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions.

- (C) Import-sensitive electronic articles.
- (D) Import-sensitive steel articles.
- (E) Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel which were not eligible articles for purposes of this subchapter on January 1, 1995, as this subchapter was in effect on such date.
- (F) Import-sensitive semimanufactured and manufactured glass products.
- (G) Any other articles which the President determines to be import-sensitive in the context of the Generalized System of Preferences.

(2) Articles against which other actions taken

An article shall not be an eligible article for purposes of this subchapter for any period during which such article is the subject of any action proclaimed pursuant to section 2253 of this title or section 1862 or 1981 of this title.

(3) Agricultural products

No quantity of an agricultural product subject to a tariff-rate quota that exceeds the in-quota quantity shall be eligible for duty-free treatment under this subchapter.

(4) Certain hand-knotted or hand-woven carpets

Notwithstanding paragraph (1)(A), the President may designate as an eligible article or articles under subsection (a) of this section carpets or rugs which are hand-loomed, hand-woven, hand-hooked, handtufted, or hand-knotted, and classifiable under subheading 5701.10.16, 5701.10.40, 5701.90.10, 5701.90.20, 5702.10.90, 5702.42.20, 5702.49.10, 5702.51.20, 5702.91.30, 5702.92.00, 5702.99.10, 5703.10.00, 5703.20.10, or 5703.30.00 of the Harmonized Tariff Schedule of the United States.

APPENDIX D: GSP LEGISLATION

ACTION	TERM	LEGISLATIVE VEHICLE
Enacted	10 Years, (1/3/75—1/3/85)	Trade Act of 1974
Renewed	8.5 Years, (1/4/85—7/3/93)	Trade and Tariff Act of 1984
<i>Expiration period of just over one month in summer of 1993</i>		
Renewed*	15 months (7/4/93—9/30/94)	FY 94 Budget Reconciliation Act
<i>Expiration period of just over two months, October and November 1994</i>		
Renewed*	10 months (10/1/94—7/31/95)	Uruguay Round Agreements Act
<i>Expiration period of 15 months, August 1995 to October 1996</i>		
Renewed*	22 months (8/1/95—5/31/97)	Small Business Job Protection Act of 1996
<i>Expiration period of just over two months, June—August 1997</i>		
Renewed*	13 months (6/1/97—6/30/98)	Taxpayer Relief Act of 1997
<i>Expiration period of four months, July—October 1998</i>		
Renewed*	12 months (7/1/98—6/30/99)	Tax and Trade Relief Extension Act of 1998
<i>Expiration period of five and a half months, July-December 1999</i>		
Renewed*	27 months (7/1/99-9/30/01)	Work Incentives Improvement Act of 1999
<i>Expiration period of 10 months, October 2001-July 2002</i>		
Renewed*	5 years (10/01/01—12/31/08)	The Trade Act of 2002
Renewed	2 years (1/1/07-12/31/08)	Tax Relief and Health Care Act of 2006
Renewed	1 year (1/1/09-12/31/09)	Andean Trade Preference Extension Act of 2008

* The renewal was made retroactive to the date of expiration, and duties paid by importers were ultimately refunded.

Source: USTR.

ENDNOTES

1. Sierra Club, “Responsible Trade: Trade & Climate Change”.
2. See Appendix A for a complete list of all U.S. GSP Developing and Least-Developed Beneficiary Countries and Territories.
3. See Appendix B for actual GSP Statute 19 USC 2462(b)(2).
4. Office of the United States Trade Representative, *U.S. Generalized System of Preferences (GSP) Guidebook*, February 2009.
5. Office of the United States Trade Representative, *U.S. Generalized System of Preferences (GSP) Guidebook*, February 2009.
6. See Appendix C for actual GSP Statute.
7. Initially, countries were required to ratify and implement all 16 human rights and labour standard treaties, as well as seven out of the eleven treaties on environment and governance to apply for the program. The remaining environmental and governance treaties were to be ratified and implemented by 2009.
8. GSP + Beneficiaries for the period 2009 to 2011: Armenia, Azerbaijan, Bolivia, Colombia, Costa Rica, Ecuador, El Salvador, Georgia, Guatemala, Honduras, Mongolia, Nicaragua, Peru, Paraguay, Sri Lanka and Venezuela.
9. See Appendix D for a complete list of all MEAs that the United States is a party to.
10. Multilateral Fund for the Implementation of the Montreal Protocol.
11. Global Environmental Fund, “What is the Global Environmental Fund”.
12. See Appendix E for a Timeline of the U.S. GSP.
13. This comparison looks at only mainstream GSP programs, not other tracks.

