

INTERNATIONAL TRADE ALERT

GSP UPDATE: DEADLINE APPROACHING FOR SUBMISSION OF REQUESTS TO WAIVE COMPETITIVE NEED LIMITATIONS FOR 2008

USTR ANNOUNCES IT WILL NOT PUBLISH THE USUAL “WARNING LIST” FOR PRODUCTS THAT MAY EXCEED COMPETITIVE NEED LIMITATIONS; IMPORTERS MUST CONDUCT THEIR OWN REVIEW OF U.S. IMPORT STATISTICS TO DETERMINE RISK OF LOSING GSP DUTY PREFERENCES

On October 16, 2008, the Office of the United States Trade Representative (USTR) issued a notice in the *Federal Register* announcing that it would no longer publish the so-called “warning list” of products that may exceed statutory competitive need limitations (CNLs) under the Generalized System of Preferences (GSP). [See 73 Fed. Reg. 61,445 (Oct. 16, 2008)]. Interested parties are now required to conduct an independent review of 2008 import data to determine whether or not the applicable CNLs have been or are likely to be exceeded for 2008. If CNLs have been or are likely to be exceeded for a particular product or products, interested parties that wish to seek CNL waivers must petition USTR no later than Thursday, November 13, 2008.

In the absence of waivers for products exceeding applicable CNLs for 2008, USTR will instruct U.S. Customs and Border Protection (CBP) to terminate GSP duty preferences by no later than July 1, 2009.

COMPETITIVE NEED LIMITATIONS

The GSP program is a duty preference program that authorizes duty-free treatment of imports from designated beneficiary developing countries (BDCs). The GSP program is intended to encourage exports from BDCs in order to stimulate economic development in those countries, provided certain U.S. trade policy criteria are satisfied. GSP benefits are removed once those exports are deemed, by exceeding applicable CNLs, to be competitive. CNLs apply to specific articles exported from BDCs to the United States during a calendar year when those articles (1) have been imported in a quantity that exceeds the absolute value threshold for that calendar year (i.e., \$135 million for 2008), or (2) have been imported in a quantity that exceeds 50 percent of the value of all such articles imported from all countries. The 50 percent standard may also be waived if the value of all such articles imported from all countries does not exceed a specified de minimis level.

While CNL waiver petitions must be submitted by November 13, 2008, the GSP Subcommittee of the Trade Policy Staff Committee will conduct its analysis on the basis of full-year 2008 import data. The analysis is conducted at the eight-digit level under the Harmonized Tariff Schedule of the United States (HTSUS) for each applicable product/export country pairing. Currently, roughly 80 CNL waivers are in effect for products ranging from processed agricultural goods to manufactured goods such as auto parts and consumer electronics.

2008 CNL WAIVER PETITION PROCESS

Interested parties that may wish to file CNL waiver petitions must—

- **Review 2008 Import Data.** In prior GSP annual reviews, USTR has published a “warning list” identifying products that had exceeded, or were likely to exceed, the applicable CNLs. USTR has announced that it will not publish a warning list for 2008. As a result, interested parties will be required to conduct their own review of 2008 import data in order to determine whether applicable CNLs may apply.
- **Understand the Technical Requirements.** The filing and informational requirements for CNL waiver petitions must be strictly observed for USTR to consider a petition for a full review. As a result, interested parties should carefully review the GSP authorizing statute and implementing regulations prior to any submission to USTR. Submissions requesting CNL waivers must be submitted in English and received by the GSP Subcommittee of the Trade Policy Staff Committee by 5:00 p.m. on Thursday, November 13, 2008.

CONTACT INFORMATION

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