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October 15, 2020

The Honorable Chuck Grassley
Chairman
Committee on Finance
United States Senate
219 Dirksen Senate Office Building
Washington, D.C. 20510

The Honorable Richard E. Neal
Chairman
Committee on Ways and Means
United States House of Representatives
1102 Longworth House Office Building
Washington, D.C. 20515

Re: Five Suggested Reforms for the Generalized System of Preferences (GSP)

Dear Chairman Grassley and Chairman Neal,

As you consider renewing tariff preference programs such as the Generalized System of Preferences (GSP), we urge you to consider whether and how such programs can be updated to serve the national interest. We are particularly concerned about the GSP, which is a legacy program originally enacted in 1974 during the Cold War.

We now have almost 45 years' worth of data regarding the GSP program. That history shows that many of the assumptions giving rise to the program have proven incorrect. For example, one of the major justifications for GSP has been the hope that increased trade would lead to widely shared economic gains in those countries participating in the program. In fact, GSP has a poor record of creating a robust middle class among the 119 countries it covers. The idea of trade as a road to development for poor countries is attractive but Congress should focus on the facts. It is equally as likely that GSP enables the riches of local oligarchs who export to the United States without distributing the gains at home.

Further, GSP has not improved labor practices in participating countries, and there is little reason to believe it will do so in the future. There are at least three difficulties here. In the first place, history shows that GSP requirements are not always enforced. Furthermore, the incentives created by GSP are not sufficient to overcome larger domestic problems in the countries that benefit from the program. Finally, the benefits of GSP treatment are apparently not sufficient to persuade companies in beneficiary countries to change their practices.

Meanwhile, GSP hurts U.S. manufacturers by forcing them to compete against low-priced imports. U.S. policymakers should be trying to stem the relative economic decline of this country as the primary economic superpower. Against that background, the idea of giving away small, but numerous, portions of our industrial base to make foreign friends should be questioned. Instead, the Congress has unilaterally given GSP countries encouragement to produce chemicals, auto parts and many other products that the United States produces or should produce.

Notably, the primary advocates for GSP are foreign countries, importers and multinationals seeking to buy the lowest priced products from the lowest wage countries. Those interests are trying to avoid buying from American suppliers who hire American workers and comply with American labor and environmental laws.

We urge Congress to reform the GSP, rather than renew it unchanged, so it achieves its original humanitarian goals while serving the national economic interests of the United States. Here are five reforms that Congress should consider.

Reform #1: GSP Countries That Continue to Utilize Forced Labor Should Be Ineligible

Among the 119 GSP beneficiary countries, 48 are currently among those in the Department of Labor's *List of Goods Produced by Child Labor or Forced Labor*.[1]

You examined this issue in a recent hearing, "Enforcing the Ban on Imports Produced by Forced Labor in Xinjiang". However, as you have articulated, despite our ban on imports of forced labor, our track record on enforcement of the ban is terrible. GSP reform is an opportunity to fix that problem.

The Department of Labor's list comprises 155 goods from 77 countries that were made with forced labor. Forty-eight of those countries receive unilateral trade benefits under the GSP despite their continued abuses. There are presently only five Workers Rights' GSP reviews:

1. Azerbaijan (began in 2019);
2. Georgia (review began in 2013);
3. Kazakhstan (review began in 2018);
4. Thailand (review began in 2015); and
5. Uzbekistan (review began in 2013).

As a practical matter, the current program places the burden of proving labor violations on labor groups who file review petitions with USTR to ensure that GSP countries are meeting their obligations with respect to workers' rights. This process is long and expensive, and it has the effect of allowing labor abusers to benefit from GSP. The disparity in the number of reviews compared with the Department of Labor's assessments is proof that the petition-review system is insufficient, and an impossible burden for American labor unions to carry alone.

[1] U.S. Department of Labor, "List of Goods Produced by Child Labor or Forced Labor", available at https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods

In 1984, Congressman Don Pease introduced the first labor rights provision into GSP legislation. His initial draft bill, supported by labor, included mandatory sanctions clause.[2] However due to opposition, we ended up with the ineffective whack-a-mole petition system currently in place.

Countries that engage in labor violations harm workers and also harm US industries that play by the rules. GSP countries have had over 45 years to clean up their act. Those who have not done so should be statutorily ineligible for the program.

Therefore, CPA proposes the following reform - 19 U.S.C. § 2462(b)(2) – "Other Basis for Ineligibility" should be amended to include:

- "Such country is among those identified by the Department of Labor pursuant to 22 U.S.C. § 7112(b)(2)(C)."

Reform #2: Limit GSP preferences to the Poorest Countries

The world of 2020 looks far different than that of 1974, when GSP was first introduced. CPA supported the termination of GSP beneficiary status for Turkey and India – these countries are economic competitors with the United States and it no longer makes sense to offer them duty-free access to thousands of manufactured goods while expecting no reciprocal access. While terminating GSP benefits for Turkey and India was a positive step, other major competitive economies such as Brazil, Indonesia, the Philippines and Thailand continue to benefit from the program.

GSP already distinguishes between more advanced "Beneficiary Developing Countries" and the "Least-Developed Beneficiary Developing Countries" (LDBDCs). The Congressional Research Service has studied the option of renewing GSP for least-developed beneficiaries only.[3] We urge the Congress to adopt this approach. The obvious benefit of limiting the program to LDBDCs is to rebalance the interests of the foreign economies with domestic producers. Only the poorest countries would be eligible and the competitive harm to American companies and workers would be limited.

Our review of USTR's GSP dockets over the last two decades shows that the more advanced countries invest considerable resources in hiring economists, attorneys, and lobbyists to defeat and negate petitions from U.S. industry and labor that challenge whether those countries are meeting their GSP status obligations. Most U.S. petitioners cannot match the resources these states are willing to invest in the GSP review process.

Therefore, CPA proposes to include only the Least-Developed Beneficiary Developing Countries in the GSP while excluding the more advanced Beneficiary Developing Countries.

[2] Compa, L. (2001). Labor rights in the generalized system of preferences: A 20-year review"
. *Comparative Labor Law & Policy Journal, 22*, 199-238, p. 203., *available at*
http://digitalcommons.ilr.cornell.edu/articles/171/
[3] Congressional Research Service, "Generalized System of Preferences (GSP): Overview and Issues for Congress", (CRS Report No. RL33663), p. 29, Updated Nov. 7, 2019

Reform #3: Condition GSP on Reciprocal Tariff and Non-Tariff Treatment

The US created GSP before the more recent era of reciprocal trade agreements. We unilaterally extended zero tariff treatment on many products without requiring reciprocal access to the markets of those countries benefiting from the program.

By contrast, the European Union has obtained reciprocity with many of these countries through trade agreements. The EU has preferential tariff agreements with many U.S. GSP beneficiaries, including Albania, Algeria, Argentina, Brazil, Indonesia, Paraguay, Philippines (in progress), and South Africa.

Congress should require that if a GSP country extends a preferential tariff rate (that is, a tariff that is applied at a rate lower than their WTO bound rate) to another country, it must extend that same preference to the United States as a condition of its GSP status.

Reform #4: Tighten rule of origin requirements and serve as a partner in combatting customs fraud

The GSP rule of origin is now outdated because it allows third countries, such as China, to benefit from the program even though they do not actually qualify for it. Congress should reform the rules of origin to be at least as strict as those in the USMCA.

Furthermore, countries with GSP beneficiary status should be partners with U.S. Customs and Border Protection in fighting customs fraud, especially transshipment fraud. Instances of goods from China evading tariffs by transshipping through a GSP country and fraudulently claiming a GSP preference should be grounds for terminating that country's GSP status.

Reform #5: Expand the list of ineligible goods

The United States has shed many industrial supply chains over the years. The result is a serious decline in the quality of employment available for the majority of American workers. When good manufacturing jobs are not available, U.S. income inequality worsens. Underemployment is persistent. Low wage, low hour jobs predominate.

China, on the other hand, engages in an industrial strategy that moves it further up the value add and advanced manufacturing ladder. By doing so, it employs its large population with increasing wages sufficient to keep the population less restive in the face of autocratic oppression. Beijing also increases its national strength in several ways by broadening, rather than eroding, its industrial base.

The United States can no longer afford to sacrifice our industries to vague and unproven notions of trade leading to development elsewhere. GSP should exclude products and services that Americans engage in or should engage in producing as we pivot to an industrial growth strategy. 19 U.S. Code § 2463(b) already lists goods which cannot be designated as eligible articles for GSP preferences.

This section of the law should be expanded to make goods classified under the following sections of the Harmonized Tariff System of the United States (HTSUS) ineligible for GSP:

- Section XV: *Base Metals and Articles of Base Metal*
- Section XVI: *Machinery and Mechanical Appliances; Electrical Equipment; Parts Thereof; Sound Recorders and Reproducers, Television Image and Sound Recorders and Reproducers, and Parts and Accessories of Such Articles*
- Section XVII: *Vehicles, Aircraft, Vessels and Associated Transport Equipment*
- Section XX: *Miscellaneous Manufactured Articles*

With the reshoring of critical industries and the fight against human exploitation abroad by advanced economies becoming top domestic priorities, Congress cannot afford to renew GSP as-is. We thank you for your consideration of these suggestions.

Sincerely,

Daniel R. DiMicco | Michael C. Stumo

Daniel DiMicco, Chairman | Michael Stumo, CEO

cc The Honorable Robert E. Lighthizer, United States Trade Representative
The Honorable Ron Wyden, Ranking Member, Senate Finance Committee
The Honorable Kevin Brady, Ranking Member, Ways and Means Committee
The Honorable John Cornyn, Chairman, Senate Finance Committee, Subcommittee on International Trade, Customs, and Global Competitiveness
The Honorable Robert Casey, Ranking Member, Senate Finance Committee, Subcommittee on International Trade, Customs, and Global Competitiveness
The Honorable Earl Blumenauer, Chairman, Ways and Means Committee, Subcommittee on Trade
The Honorable Vern Buchanan, Ranking Member, Ways and Means Committee, Subcommittee on Trade