United States International Trade Commission

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of Additions and Removals

Investigation No. 332-507

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U.S. International Trade Commission

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NOTICE

THIS REPORT IS A PUBLIC VERSION OF THE REPORT SUBMITTED TO THE UNITED STATES TRADE REPRESENTATIVE ON JANUARY 21, 2010. ALL CONFIDENTIAL NATIONAL SECURITY INFORMATION AND CONFIDENTIAL BUSINESS INFORMATION HAS BEEN REMOVED AND REPLACED WITH ASTERISKS (***).

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ABSTRACT

This report contains the advice of the U.S. International Trade Commission (Commission) to the President regarding the probable economic effect of certain proposed additions to, and removals from, the list of articles eligible for duty-free treatment under the provisions of the Generalized System of Preferences (GSP) on the U.S. industries producing like or directly competitive articles, and on U.S. imports and consumers. The articles and Harmonized Tariff Schedule (HTS) subheadings for the proposed additions are frozen beans (0710.22.40); frozen mixed vegetables (0710.90.91); lauryl, cetyl, and stearyl alcohols (2905.17.00); certain industrial fatty alcohols (3823.70.40); and aluminum conductor steel-reinforced cable and wire (7614.10.10). The articles and HTS subheadings being considered for removal are gold rope necklaces and chains (7113.19.21) and gold mixed link necklaces and chains (7113.19.25) from India.

CHAPTER 1
Introduction and Summary of Findings

Introduction[1]

This report provides advice concerning the probable economic effect (PE) of certain proposed additions to, and removal from, the list of articles eligible for duty-free treatment under the provisions of the U.S. Generalized System of Preferences (GSP), as requested by the United States Trade Representative (USTR).[2] Specifically, the report provides advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on consumers, of the proposed modifications to the list of eligible articles.

Product and Country Coverage

As requested by the USTR, advice is provided on the PE on U.S. industries producing like or directly competitive article, U.S. imports, and U.S. consumers of adding five HTS subheadings to the list of articles eligible for duty-free treatment under the GSP and removing two HTS subheadings for India from duty-free status. The HTS subheadings being considered for additions are 0710.22.40 (frozen beans); 0710.90.91 (frozen mixed vegetables); 2905.17.00 (lauryl, cetyl, and stearly alcohols); 3823.70.40 (certain industrial fatty alcohols); and 7614.10.10 (aluminum conductor steel reinforced cable and wire). The HTS subheadings being considered for removal are 7113.19.21 (gold rope necklaces and chains) and 7113.19.25 (gold mixed link necklaces and chains) from India.

Analytical Approach

*   *   *   *   *   *   *

Summary of Advice

*   *   *   *   *   *   *

[1] The information in these chapters is for the purpose of this report only. Nothing in this report should be construed to indicate how the Commission would find in an investigation conducted under any other statutory authority.

[2] See app. A for the USTR request letter. See app. B for the Commission's Federal Register notice instituting the investigation. The Commission held a public hearing on this matter on November 16, 2009, in Washington, DC; see app. C for the calendar of witnesses for the public hearing.

CHAPTER 2
Certain Frozen Vegetables

Addition[1]

HTS subheading	Short description	Col. 1 rate of duty as of 1/1/09 (percent ad valorem equivalent)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
0710.22.40[a]	Frozen beans, reduced in size	11.2	Yes
0710.90.91[a]	Frozen mixed vegetables	14.0	Yes

[a] This HTS subheading is currently on the list of articles eligible for duty-free treatment under the provisions of the GSP for countries designated as least developed beneficiary developing countries (LDBDC) (A+) as well as for countries eligible for AGOA (D).

The frozen vegetables covered here, frozen beans and frozen mixed vegetables, are uncooked or cooked by steaming or boiling in water. Frozen beans are only those reduced in size;[2] frozen mixed vegetables are those whether or not reduced in size.[3] Both of these vegetables are sold in the industrial, institutional/foodservice, and retail markets, in various size containers, and as both branded and private label products. At the retail level, these vegetables are most often used as a side dish, in stews, and in other food preparations. At the nonretail level, these vegetables are most often sold in bulk containers or repacked into smaller containers.

Probable Economic Effect Advice

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[1] The petitioner for both items is the Government of the Arab Republic of Egypt.

[2] Reduced-in-size vegetables included here are those that have been chopped, cut, sliced, or otherwise made smaller than their original whole size.

[3] Included here are frozen mixed vegetables other than mixtures of pea pods and water chestnuts (other than Chinese water chestnuts).

Profile of U.S. Industry and Market, 2004–08

The United States is a major producer and consumer of frozen beans and frozen mixed vegetables, as well as a major importer and exporter of frozen mixed vegetables. There were an estimated 30 firms processing frozen beans in 2008 and an estimated 20 firms processing frozen mixed vegetables (tables 2.1 and 2.2).[4] Both items are produced in a number of states including Washington, California, New Jersey, New York, and Michigan, and both items are grown specifically for freezing rather than being diverted to processing after fresh-market demand has been satisfied. Most U.S. firms producing these vegetables are also processing a number of other frozen vegetables.

* * * * * * *

U.S. importers are bringing in the subject vegetables in both retail- and institutional-size packages primarily for sale in the United States. Some U.S. frozen vegetable processing firms are importing these products in increasing amounts for distribution from, and sometimes repacking in, their U.S. plants. A number of firms are selling their frozen beans and, to a much greater extent, frozen mixed vegetables in both domestic and international markets.

TABLE 2.1 Frozen beans (HTS subheading 0710.22.40): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2004–08

Item	2004	2005	2006	2007	2008
Producers (number)	30	30	30	30	30
Employment (1,000 employees)	3	3	3	3	3
Shipments (1,000 $)	***	***	***	***	***
Exports (1,000 $)	7,427	4,824	4,950	5,600	5,248
Imports (1,000 $)	9,582	10,195	12,737	14,627	16,512
Consumption (1,000 $)	***	***	***	***	***
Import-to-consumption ratio (%)	***	***	***	***	***
Capacity utilization (percent)	**80	**80	**80	**80	**80

Source: Number of producers, employment, shipments, and capacity utilization estimated by Commission staff; exports and imports compiled from official statistics of the U.S. Department of Commerce.

Note: Shipment data are not separately reported for those frozen beans that are the subject vegetables covered here. As such, they are estimated by Commission staff. Export data cover a much larger group of frozen vegetables and are not directly comparable with the frozen vegetables covered here.

Note: ** refers to staff estimates based on limited information; data adequate for estimation with a moderate degree of confidence.

[4] Membership Directory and Buyers Guide, American Frozen Foods Institute, McLean, VA.

TABLE 2.2 Frozen mixed vegetables (HTS subheading 0710.90.91): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2004–08

Item	2004	2005	2006	2007	2008
Producers (number)	20	20	20	20	20
Employment (1,000 employees)	2	2	2	2	2
Shipments (1,000 $)	([a])	([a])	([a])	([a])	([a])
Exports (1,000 $)[b]	15,417	14,430	17,842	28,459	27,566
Imports (1,000 $)	45,251	51,316	52,472	62,449	71,335
Consumption (1,000 $)	([c])	([c])	([c])	([c])	([c])
Import-to-consumption ratio (%)	([c])	([c])	([c])	([c])	([c])
Capacity utilization (%)	([c])	([c])	([c])	([c])	([c])

Source: Number of producers, employment, and capacity utilization estimated by Commission staff; exports and imports compiled from official statistics of the U.S. Department of Commerce.

[a] There are no shipment data available for the frozen mixed vegetables covered here, nor even for a much more inclusive group of frozen mixed vegetables from which to make estimates.
[b] Export data are for a large basket category covering more products than the mixed vegetables included in HTS subheading 0710.90.91.
[c] Not available.

GSP Import Situation, 2008

Egypt and India were the United States' primary GSP-eligible import sources for frozen beans, accounting for 80 and 20 percent of such U.S. imports of these products in 2008, respectively; however, the two countries combined accounted for less than 5 percent of total U.S. imports in 2008 (table 2.3). Egypt and Ecuador[5] were the largest GSP-eligible import sources for frozen mixed vegetables, accounting for 53 and 21 percent, respectively, of such U.S. imports in 2008 (table 2.4). As with frozen beans, GSP-eligible suppliers accounted for a very small share (3 percent) of total U.S. imports of frozen mixed vegetables in 2008.

TABLE 2.3 Frozen beans (HTS subheading 0710.22.40): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	16,512	100	([a])	***
Imports from GSP-eligible countries:				
Total	597	4	100	***
Egypt	478	3	80	***
India	119	1	20	***

[a] Not applicable.
[b] ***.

[5] U.S. imports of frozen mixed vegetables from Ecuador are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

TABLE 2.4 Frozen mixed vegetables (HTS subheading 0710.90.91): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	71,335	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	2,246	3	100	([b])
Egypt	1,185	2	53	([b])
Ecuador	483	1	21	([b])

[a] Not applicable.
[b] Not available.

U.S. Imports and Exports

Data for total U.S. imports and exports of the subject products are found in tables 2.5–2.8.

TABLE 2.5 Frozen beans (HTS subheading 0710.22.40): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

Country	2004	2005	2006	2007	2008	January–July 2008	January–July 2009
Canada	7,583,960	8,799,902	10,578,455	12,012,540	13,331,308	6,749,546	8,187,114
China	632,901	730,275	1,216,722	1,134,760	1,753,006	821,986	553,603
Egypt	128,979	23,486	388,871	645,482	478,179	242,385	389,077
Costa Rica	0	0	16,275	116,620	432,776	231,227	236,141
New Zealand	0	12,818	118,849	37,336	168,477	84,649	3,069
France	20,774	23,948	5,714	23,522	158,274	52,181	72,335
India	67,957	46,270	41,948	44,263	119,266	99,029	18,362
Guatemala	0	0	14,601	0	23,800	23,800	0
Greece	6,962	6,797	6,203	24,043	15,541	8,998	20,132
Belgium	22,957	37,371	16,349	407,679	12,600	12,600	6,951
All other	1,117,787	514,164	333,145	180,573	19,213	16,243	68,259
Total	9,582,277	10,195,031	12,737,132	14,626,818	16,512,440	8,342,644	9,555,043
Imports from GSP-eligible countries:							
Egypt	128,979	23,486	388,871	645,482	478,179	242,385	389,077
India	67,957	46,270	41,948	44,263	119,266	99,029	18,362
Bangladesh[a]	2,757	12,570	24,420	0	0	0	0
Philippines	0	2,048	0	0	0	0	0
Total	199,693	84,374	455,239	689,745	597,445	341,414	407,439

Source: Official statistics of the U.S. Department of Commerce.

[a] Bangladesh is currently eligible for duty-free treatment under the provisions of the GSP for countries designated as least developed beneficiary developing countries (LDBDC) (A*). This program was used for Bangladesh's 2004 entries but not for subsequent trade.

TABLE 2.6 Frozen: U.S. exports of domestic merchandise, by market, 2004–08, January–July 2008 and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Canada	4,131,618	2,883,452	3,043,228	3,278,556	2,683,355	1,520,419	3,175,711
Japan	666,532	768,078	496,792	1,057,213	571,254	437,566	262,746
Chile	0	0	0	0	558,000	510,000	145,000
Dominican Republic	2,221,140	522,375	90,998	75,640	394,099	394,099	0
Mexico	59,774	289,402	145,399	245,741	199,431	79,189	962,160
Norway	0	0	97,193	137,107	154,072	117,046	24,149
French Guiana	0	4,158	140,856	109,166	143,487	68,617	106,960
Korea	15,558	56,273	4,884	51,629	93,208	60,607	26,465
Australia	84,061	0	0	96,034	65,606	65,606	19,726
Jamaica	0	0	11,196	0	50,000	50,000	0
All other	248,807	299,763	919,749	548,432	335,020	202,593	193,913
Total	7,427,490	4,823,501	4,950,295	5,599,518	5,247,532	3,505,742	4,916,830

Source: Official statistics of the U.S. Department of Commerce.

TABLE 2.7 Frozen mixed vegetables (HTS subheading 0710.90.91): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

Country	2004	2005	2006	2007	2008	January–July 2008	January–July 2009
Mexico	21,166,569	24,589,218	22,331,309	28,506,168	34,675,228	21,410,744	21,424,051
Canada	15,313,790	17,210,468	17,879,708	18,420,803	20,619,558	11,296,310	10,729,167
China	979,850	1,653,568	2,896,601	4,722,556	4,979,260	2,479,523	3,857,055
Chile	2,631,386	2,023,850	2,280,478	2,754,378	3,881,469	1,706,833	856,653
Guatemala	1,814,900	1,842,781	2,062,688	1,845,841	2,731,241	1,665,436	1,784,884
Poland	710,526	379,644	315,565	1,198,109	1,295,897	837,858	342,592
Egypt	0	2,296	643,456	1,037,795	1,184,651	746,175	335,437
Ecuador	108,122	313,931	360,557	583,444	482,782	270,950	115,549
Costa Rica	11,765	2,318	149,672	261,139	329,676	122,295	296,368
Thailand	0	0	0	514,997	264,600	264,600	49,896
All other	2,514,088	3,298,348	3,551,798	2,604,043	890,995	539,145	378,242
Total	45,250,996	51,316,422	52,471,832	62,449,273	71,335,357	41,339,869	40,169,894
Imports from GSP-eligible countries:							
Egypt	0	2,296	643,456	1,037,795	1,184,651	746,175	335,437
Ecuador[a]	108,122	313,931	360,557	583,444	482,782	270,950	115,549
Thailand	0	0	0	514,997	264,600	264,600	49,896
India	86,902	81,188	72,564	32,777	264,160	107,467	26,166
Colombia[a]	12,222	30,483	50,328	64,665	40,917	17,714	30,228
Russia	0	0	0	0	8,887	8,887	0
Fiji	0	0	0	2,565	0	0	0
Philippines	5,685	9,697	0	8,321	0	0	0
Armenia	0	0	0	0	0	0	3,016
Jamaica[b]	0	0	0	2,065	0	0	0
All other	0	42,378	10,998	0	0	0	0
Total	212,931	479,973	1,137,903	2,246,629	2,245,997	1,415,793	560,292

Source: Official statistics of the U.S. Department of Commerce.

[a] U.S. imports of frozen mixed vegetables are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

[b] Imports from Jamaica may be eligible for duty-free entry under the Caribbean Basin Initiative program. U.S. imports from Jamaica in 2007 entered duty-free under this program.

TABLE 2.8 Frozen mixed vegetables: U.S. exports of domestic merchandise, by market, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Japan	11,166,413	9,766,660	11,104,699	11,363,377	11,670,580	6,588,051	8,937,580
Netherlands	5,306	0	0	4,484,388	3,912,178	3,890,650	33,532
British Virgin Island	14,895	0	0	4,613,580	2,778,890	2,778,890	3,172
Hong Kong	1,355,059	1,274,331	2,298,959	2,332,515	2,033,289	1,253,727	1,222,864
Canada	457,308	1,355,374	2,043,810	2,179,486	1,986,701	1,301,717	871,535
Mexico	822,730	694,251	172,008	178,718	679,940	260,153	297,154
Anguilla	0	0	0	785,511	647,987	644,841	7,094
China	343,800	414,007	523,608	815,523	567,969	356,480	178,588
Bermuda	289,965	271,065	331,489	404,820	471,730	263,101	235,305
Russia	0	0	4,690	4,900	324,341	0	0
All other	961,365	654,759	1,362,983	1,296,002	2,491,974	1,327,619	1,624,001
Total	15,416,841	14,430,447	17,842,246	28,458,820	27,565,579	18,665,229	13,410,825

Source: Official statistics of the U.S. Department of Commerce.

Note: This Schedule B category is a large basket containing products in addition to the subject frozen mixed vegetables.

Position of Interested Parties[6]

Petitioner – The petitioner for both of the subject frozen vegetables is the Government of the Arab Republic of Egypt (Egyptian Government). In its petition, the Egyptian Government stated that Egypt's global exports of frozen beans amounted to 1,028 metric tons in 2008; exports to the United States amounted to 838 metric tons, or 82 percent of Egypt's total exports. Egyptian exports of frozen mixed vegetables to the United States amounted to 60 metric tons or 9 percent of the 676 metric tons of total Egyptian exports in 2008. Further, the Egyptian Government stated that the capacity utilization of companies producing each commodity was already at around 80 percent.

No other statements were received by the Commission in support of, or in opposition to, the proposed modifications to the GSP considered for these HTS subheadings.

[6] Except as noted, information provided in this section is derived from the petition filed with the USTR.

CHAPTER 3
Certain Industrial Fatty Alcohols

Addition[1]

HTS subheading	Short description	Col. 1 rate of duty as of 1/1/09 (percent ad valorem equivalent)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
2905.17.00[a]	Dodecan-1-ol (lauryl alcohol), hexadecan-1-ol (cetyl alcohol), and octadecan-1-ol (stearyl alcohol)	5.0	Yes
3823.70.40[a]	Other industrial fatty alcohols derived from animal or vegetable sources	2.0	Yes

[a] This HTS subheading is currently on the list of articles eligible for duty-free treatment under the provisions of the GSP for countries designated as least-developed beneficiary developing countries (LDBDC) (A+) as well as for countries eligible for African Growth and Opportunity Act (AGOA) (D).

The subject products are industrial fatty alcohols derived from either oleochemical ("natural") or petrochemical ("synthetic") sources. HTS subheading 2905.17.00 covers pure, single-length carbon-chain alcohols, whether natural or synthetic. Mixtures of natural alcohols fall under HTS subheading 3823.70.40 (alcohols with varying carbon-chain lengths). Natural alcohols are almost uniformly linear; synthetic alcohols contain a blend of linear and branched alcohols. Both the natural and synthetic alcohols are used in the same applications and are substitutes for each other.[2] Any chemical difference between natural and synthetic alcohols does not limit their applications but may require downstream companies to modify their formulations depending on whether the alcohols are natural or synthetic.[3]

The subject alcohols are used primarily to make surfactants that are inputs for various household and industrial cleaning compounds, personal care products, and lubricants. Other uses include direct applications in toiletries and pharmaceuticals, some research uses related to the production of certain pesticides, and in enhanced oil-recovery applications.

Probable Economic Effect Advice

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[1] The petitioner is Oleoquímica Indústria e Comércio de Produtos Químicos Ltda. (Brazil).
[2] USITC hearing transcript, November 16, 2009, 33 (testimony of Jim Crump, Shell Chemical Co.).
[3] Industry official, phone interview with Commission staff, November 6, 2009.

Profile of U.S. Industry and Market, 2004–08

The U.S. industry that manufactures the subject industrial fatty alcohols consists of four producers. Cognis and Procter & Gamble Chemicals produce the subject products using oleochemical raw materials; Sasol and Shell Chemical L.P. manufacture the subject products from petrochemical sources. A representative of the domestic industry testified during the hearing that approximately 80 percent of these domestically produced alcohols are captively consumed with the balance being sold on the merchant market.[4] Integrated facilities will produce alcohol and then ethoxylate the alcohol. In its post-hearing brief Sasol estimated that captive consumption for the aggregate U.S. industry could range from *** and stated that its own captive consumption to produce ethoxylates in 2008 was about *** percent.[5] In its post-hearing brief, Shell stated that *** percent of its 2008 production was captively consumed.[6] Most of the U.S. production of ethoxylate is based on captive alcohol production, which is considered to provide certain financial, economic, logistical, and environmental advantages to producers.[7]

Overall demand for these alcohols is projected to grow at an average annual rate of 3–4 percent around the globe and 1–2 percent in the U.S. market over the next few years.[8] Almost 75 percent of U.S. consumption of these alcohols is for household applications—45 percent for laundry detergent. Household applications are the fastest-growing segment of the U.S. market as consumers continue to increase their use of concentrated, liquid laundry detergents and dishwashing liquids, as well as shower gels.

Over the past three decades, global production has been shifting from primarily synthetic alcohols to natural alcohols, due in part to the increasing demand for "green" products. In fact, in all markets around the world, only natural alcohol facilities have been built or expanded in the past several years. Countries in Southeast Asia have been adding capacity to manufacture these alcohols (and their downstream products) in order to capitalize on the local supply of coconut oil and palm kernel oil.

Shell and Sasol asserted that their fatty alcohol production could be adversely affected not only in the merchant market through imports of cheaper alcohols themselves, but also in captive consumption through sales of ethoxylates made from these cheaper alcohols. Shell's and Sasol's merchant market sales could be negatively impacted by ethoxlators or other downstream users who modified their operations to substitute natural alcohols for synthetic alcohols. In addition, the ethoxylates made from the cheaper alcohols could reduce demand for the domestic industry's down stream ethoxylates, thereby reducing captive consumption of the fatty alcohols.[9]

U.S. imports of natural alcohols, particularly from South and Southeast Asia, have shown strong recent increases. Price competitiveness, influenced by the rising cost of

4 USITC hearing transcript, November 16, 2009, 89 (testimony of Jim Crump, Shell Chemical Co.).
5 Sasol Post-hearing Brief, November 19, 2009, 2-3.
6 Shell Post-hearing Brief, November 19, 2009, 3.
7 USITC hearing transcript, November 16, 2009, 80 (testimony of Jim Crump, Shell Chemical Co.).
8 USITC hearing transcript, November 16, 2009, 34 (testimony of Jim Crump, Shell Chemical Co.).
9 Sasol Post-hearing Brief, November 19, 2009, 3. Shell Post-hearing Brief, November 19, 2009, 3-4.

petrochemical[10] and oleochemical feedstocks as well as the new capacity in Southeast Asia, has reportedly played a significant role in the growth of U.S. imports.[11] Capacity utilization rates for the U.S. producers of the subject products *** in 2008, in part because of the sharp fluctuations in the price of petrochemical feedstocks (see footnote 10). Due in part to rising imports, U.S. production of fatty alcohols has been declining, leading to decreasing capacity utilization rates and increasing import-to-consumption ratios (table 3.1).[12]

TABLE 3.1 Certain industrial fatty alcohols (HTS subheadings 2905.17.00 and 3823.70.40): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2004–08

Item	2004	2005	2006	2007	2008
Producers (number)	4	4	4	4	4
Employment (1,000 employees)	***	***	***	***	***
Shipments (1,000 $)[a]	***	***	***	***	***
Exports (1,000 $)	125,785	180,439	232,889	275,879	265,290
Imports (1,000 $)	108,910	138,502	109,088	121,829	240,081
Consumption (1,000 $)	***	***	***	***	***
Import-to-consumption ratio ($)	***	***	***	***	***
Capacity utilization (%)	80	77	80	81	***[a]

Source: Except as noted, data are derived from official statistics of the U.S. Department of Commerce.

[a] Data derived from industry sources. Separate data for each HTS subheading are not available.

GSP Import Situation, 2008

GSP-eligible countries collectively accounted for 32 percent of total U.S. imports of lauryl, cetyl, and stearyl alcohols (HTS subheading 2905.17.00) in 2008 (table 3.2). India was the largest GSP-eligible source, supplying 51 percent of all imports from GSP-eligible countries and 16 percent of total U.S. imports of these products. Indonesia and the Philippines are the only other GSP-eligible countries that supplied more than 1 percent of total U.S. imports of these products in 2008 (11 percent and 5 percent, respectively). Both India's and the Philippines' shares of the import market increased over the 2004–08 period. India's share increased fourfold, while the Philippines' share tripled. Brazil exported a small amount of these products to the U.S. market in the first 6 months of 2008. Sasol stated that Brazil has recently added 100,000 tons of new capacity to its Oxiteno plant.[13]

[10] The price of petrochemical feedstocks fluctuates with changes in prices for crude petroleum and natural gas. For example, the average price of crude petroleum rose from about $65 per barrel in 2007 to $98 per barrel in 2008 (with some months reporting prices over $140 per barrel); during January-September 2009, the average price dropped to $55 per barrel. As a result of these price fluctuations for crude petroleum, prices for the subject products derived from petrochemical feedstocks have also risen and fallen, thereby impacting their price competitiveness vis-à-vis fatty alcohols derived from natural sources.

[11] Sasol Corp., written submission to the USITC, November 4, 2009, 2.

[12] Cognis Corp., written submission to the USITC, November 11, 2009, 1.

[13] USITC hearing transcript, November 16, 2009, 27 (testimony of Eric Stouder, Sasol Olefins and Surfactants).

TABLE 3.2 Lauryl, cetyl, and stearyl alcohols (HTS subheading 2905.17.00): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	40,691	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	13,049	32	100	([b])
India	6,632	16	51	([b])
Indonesia	4,383	11	34	([b])
Philippines	1,908	5	15	([b])

[a] Not applicable.
[b] Not available.

Indonesia was the leading GSP-eligible source of U.S. imports of natural alcohol mixtures (HTS subheading 3823.70.40). Indonesia accounted for 26 percent of total U.S. imports from all sources and 59 percent of imports from GSP-eligible countries (table 3.3). Other leading GSP-eligible suppliers included India and the Philippines. Brazil, the petitioner, only began exporting the subject products to the U.S. market in 2008, and there were no U.S. imports from Brazil during January through July 2009.

TABLE 3.3 Other industrial fatty alcohols (HTS subheading 3823.70.40): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	199,390	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	89,116	45	100	([b])
Indonesia	52,197	26	59	([b])
India	17,916	9	20	([b])
Philippines	17,480	9	20	([b])
Brazil	34	([c])	([c])	([b])

[a] Not applicable.
[b] Not available.
[c] Less than 0.5 percent.

U.S. Imports and Exports

Data for total U.S. imports and exports of the subject alcohols are found in tables 3.4–3.9.

TABLE 3.4 Certain industrial fatty alcohols (HTS subheadings 2905.17.00 and 3823.70.40): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Malaysia	53,983,957	63,177,290	52,697,481	58,907,687	118,139,366	74,334,807	38,425,921
Indonesia	20,869,468	25,812,803	23,881,441	31,042,206	56,580,031	31,791,021	23,109,929
India	3,098,099	10,827,820	9,176,896	12,511,642	24,548,072	16,997,742	6,118,232
Philippines	2,078,066	5,585,967	7,921,108	6,728,285	19,388,063	10,684,454	1,935,231
Germany	17,648,685	23,806,562	9,549,784	7,055,043	9,850,352	5,906,378	3,077,294
China	784,470	1,384,572	2,236,386	2,018,704	6,252,540	4,075,124	1,762,276
Thailand	0	0	0	69,691	1,467,216	79,629	333,205
Japan	2,220,559	1,903,368	1,431,409	1,364,960	1,301,522	985,503	199,313
France	2,107,248	2,189,347	740,694	543,348	1,029,481	658,369	294,209
Norway	0	0	226,084	743,864	564,567	256,322	144,636
All other	6,119,276	3,814,552	1,226,863	843,885	959,887	470,866	3,728,433
Total	108,909,828	138,502,281	109,088,146	121,829,315	240,081,097	146,240,215	79,170,679
Imports from GSP-eligible countries:							
Indonesia	20,869,468	25,812,803	23,881,441	31,042,206	56,580,031	31,791,021	23,109,929
India	3,098,099	10,827,820	9,176,896	12,511,642	24,548,072	16,997,742	6,118,232
Philippines	2,078,066	5,585,967	7,921,108	6,728,285	19,388,063	10,684,454	1,935,231
Thailand	0	0	0	69,691	1,467,216	79,629	333,205
Argentina	0	17,317	167,024	250,448	134,563	66,814	15,569
Brazil	0	0	0	0	33,920	33,920	0
Colombia[a]	25,932	0	0	0	13,179	0	0
Russia	0	19,650	0	0	0	0	0
Total	26,071,565	42,263,557	41,146,469	50,602,272	102,165,044	59,653,580	31,512,166

Source: Official statistics of the U.S. Department of Commerce.

[a] U.S. imports of certain industrial fatty alcohols from Colombia are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

TABLE 3.5 Certain industrial fatty alcohols (Schedule B subheadings 2906.17.00 and 3823.70.40): U.S. exports of domestic merchandise, by market, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Mexico	28,699,173	38,841,626	54,827,060	51,879,604	58,536,669	36,808,622	22,062,226
Canada	21,233,710	26,200,703	29,471,128	40,951,544	49,130,124	31,820,616	19,549,594
Netherlands	407,846	65,455	31,468,858	51,452,240	45,822,476	24,572,107	12,928,573
Japan	16,566,674	33,531,298	35,778,623	33,399,273	30,188,516	10,585,763	6,731,946
Brazil	8,492,941	8,749,838	18,273,910	18,854,384	14,940,458	9,942,277	2,317,281
Singapore	1,238,785	995,590	526,348	200,457	9,105,483	250,738	3,164,339
China	11,866,351	8,423,024	12,051,125	22,534,730	9,058,609	5,344,075	4,899,080
Argentina	1.797,551	69,977	1,429,128	3,661,761	8,435,326	6,465,419	2,399,102
Germany	9,388,451	7,675,960	7,473,826	12,055,034	8,222,550	5,675,946	3,248,485
Australia	4,841,612	6,681,731	4,355,264	6,540,660	8,121,458	5,147,699	2,947,621
All other	21,252,018	49,203,323	37,233,333	34,349,742	23,727,850	14,055,086	12,915,503
Total	125,785,112	180,438,525	232,888,603	275,879,429	265,289,519	150,668,348	93,163,750

Source: Official statistics of the U.S. Department of Commerce.

TABLE 3.6 Lauryl, cetyl, and stearyl alcohols (HTS subheading 2905.17.00): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Malaysia	6,883,300	10,524,509	10,605,208	10,637,976	19,725,206	9,819,992	5,380,926
Germany	5,630,706	5,885,226	4,064,991	4,404,649	7,397,495	5,696,847	650,242
India	703,640	2,995,026	1,672,576	2,221,078	6,632,419	3,887,225	2,295,187
Indonesia	2,125,748	2,336,592	1,675,004	1,155,541	4,382,917	2,177,237	944,280
Philippines	287,075	1,108,180	833,075	497,172	1,907,935	1,491,431	166,139
Mexico	64,980	369,004	357,396	91,540	206,011	6,300	5,970
France	1,076,951	746,541	0	90,240	175,815	175,815	0
Thailand	0	0	0	69,691	112,450	79,629	0
Japan	256,114	114,188	33,720	16,370	39,172	28,636	3,315
Singapore	0	0	0	0	34,398	0	1,306,011
All other	822,001	1,073,605	183,414	138,626	77,535	20,106	56,378
Total	17,850,515	25,152,871	19,425,384	19,322,883	40,691,353	23,383,218	10,808,448
Imports from GSP-eligible countries:							
India	703,640	2,995,026	1,672,576	2,221,078	6,632,419	3,887,225	2,295,187
Indonesia	2,125,748	2,336,592	1,675,004	1,155,541	4,382,917	2,177,237	944,280
Philippines	287,075	1,108,180	833,075	497,172	1,907,935	1,491,431	166,139
Thailand	0	0	0	69,691	112,450	79,629	0
Colombia[a]	25,932	0	0	0	13,179	0	0
Russia	0	19,650	0	0	0	0	0
Total	3,142,395	6,459,448	4,180,655	3,943,482	13,048,900	7,635,522	3,405,606

Source: Official statistics of the U.S. Department of Commerce.

[a] U.S. imports of lauryl, cetyl, and stearyl alcohols from Colombia are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

TABLE 3.7 Lauryl, cetyl, and stearyl alcohols (Schedule B subheading 2905.17.00): U.S. exports of domestic merchandise, by market, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Mexico	4,877,808	4,641,774	6,653,884	7,624,421	9,224,650	5,735,325	3,493,578
Canada	3,009,350	2,185,090	2,193,188	2,980,818	3,306,856	2,271,536	1,223,968
Venezuela	92,654	67,824	52,448	19,458	1,123,432	0	0
Belgium	959,215	283,427	324,000	1,480,630	879,366	540,880	123,605
Brazil	555,113	235,258	1,846,433	1,055,353	379,775	38,795	88,863
Hong Kong	164,818	0	0	98,739	371,707	356,735	7,963
China	1,409,676	278,553	17,562	21,869	251,903	248,915	8,081
Colombia	155,062	82,102	108,219	135,228	166,396	41,359	68,395
Japan	0	0	0	0	143,738	0	0
United Kingdom	16,500	0	994,534	67,620	119,974	67,620	0
All other	2,948,687	1,967,641	515,664	468,933	470,663	296,565	539,977
Total	14,188,883	9,741,669	12,705,932	13,953,069	16,438,460	9,597,730	5,554,430

Source: Official statistics of the U.S. Department of Commerce.

TABLE 3.8 Other industrial fatty alcohols (HTS subheading 3823.70.40): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Malaysia	47,100,657	52,652,781	42,092,273	48,269,711	98,414,160	64,514,815	33,044,995
Indonesia	18,743,720	23,476,211	22,206,437	29,886,665	52,197,114	29,613,784	22,165,649
India	2,394,459	7,832,794	7,504,320	10,290,564	17,915,653	13,110,517	3,823,045
Philippines	1,790,991	4,477,787	7,088,033	6,231,113	17,480,128	9,193,023	1,769,092
China	426,767	568,921	2,105,376	1,967,696	6,252,540	4,075,124	1,752,586
Germany	12,017,979	17,921,336	5,484,793	2,650,394	2,452,857	209,531	2,427,052
Thailand	0	0	0	0	1,354,766	0	333,205
Japan	1,964,445	1,789,180	1,397,689	1,348,590	1,262,350	956,867	195,998
France	1,030,297	1,442,806	740,694	453,108	853,666	482,554	294,209
Norway	0	0	226,084	743,864	564,567	256,322	144,636
All other	5,589,998	3,187,594	817,063	664,727	641,943	444,460	2,411,764
Total	91,059,313	113,349,410	89,662,762	102,506,432	199,389,744	122,856,997	68,362,231
Imports from GSP-eligible countries:							
Indonesia	18,743,720	23,476,211	22,206,437	29,886,665	52,197,114	29,613,784	22,165,649
India	2,394,459	7,832,794	7,504,320	10,290,564	17,915,653	13,110,517	3,823,045
Philippines	1,790,991	4,477,787	7,088,033	6,231,113	17,480,128	9,193,023	1,769,092
Thailand	0	0	0	0	1,354,766	0	333,205
Argentina	0	17,317	167,024	250,448	134,563	66,814	15,569
Brazil	0	0	0	0	33,920	33,920	0
All other	22,929,170	35,804,109	36,965,814	46,658,790	89,116,144	52,018,058	28,106,560
Total	22,929,170	35,804,109	36,965,814	46,658,790	89,116,144	52,018,058	28,106,560

Source: Official statistics of the U.S. Department of Commerce.

TABLE 3.9 Other industrial fatty alcohols (Schedule B subheading 3823.70.40): U.S. exports of domestic merchandise, by market, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Mexico	23,821,365	34,199,852	48,173,176	44,255,183	49,312,019	31,073,297	18,568,648
Canada	18,224,360	24,015,613	27,277,940	37,970,726	45,823,268	29,549,080	18,325,626
Netherlands	114,289	33,154	31,468,858	51,301,553	45,822,476	24,572,107	12,928,573
Japan	16,566,674	33,531,298	35,778,623	33,399,273	30,044,778	10,585,763	6,731,946
Brazil	7,937,828	8,514,580	16,427,477	17,799,031	14,560,683	9,903,482	2,228,418
Singapore	1,238,785	995,590	526,348	200,457	9,105,483	250,738	3,164,339
China	10,456,675	8,144,471	12,033,563	22,512,861	8,806,706	5,095,160	4,890,999
Argentina	1,785,769	63,854	1,367,335	3,629,413	8,407,363	6,437,456	2,392,664
Germany	9,352,985	7,640,457	7,473,826	12,047,834	8,206,710	5,660,106	2,804,086
Australia	4,811,174	6,635,656	4,348,845	6,499,181	8,039,381	5,106,667	2,940,871
All other	17,286,325	46,922,331	35,306,680	32,310,848	20,722,192	12,836,762	12,633,150
Total	111,596,229	170,696,856	220,182,671	261,926,360	248,851,059	141,070,618	87,609,320

Source: Official statistics of the U.S. Department of Commerce.

Position of Interested Parties[14]

Petitioner – Oleoquímica Indústria e Comércio de Produtos Químicos Ltda. (Brazil), a subsidiary of Oxiteno S/A Indústria e Comércio, petitioned for the addition of these fatty alcohols to the list of products eligible for GSP treatment. The petitioner asserted that two major types of expected benefits, environmental and social, support the extension of GSP treatment to these fatty alcohols. The petitioner claimed that by using vegetable-based raw material, its facility would contribute to environmental protection by adding greater biodegradability and sustainability to the ecosystem. Moreover, the petitioner claimed that it has a program for the control and reduction of greenhouse gases.

The petitioner further claimed that the Brazilian location of its manufacturing facilities should be considered, since the United Nations Human Development Index (HDI) for the state of Bahia, where the plant is located, is on par with Cape Verde, one of the GSP-designated Least-Developed Beneficiary Developing Countries (LDBDC).[15] Though it referred to this topic indirectly, Oleoquímica also argued that Ultrapar[16] (Oleoquimica's parent company) took a significant risk in investing approximately $250 million to build the first fatty alcohols plant in Latin America. The petitioner contended that the company should be rewarded for being willing to accept that risk and build a plant in a depressed area. Further, the petitioner claimed that extending GSP treatment to these products would benefit U.S. producers of downstream products by enhancing their competitiveness and also benefit U.S. consumers by reducing the price of products containing the subject fatty alcohols.

Opposition – Three of the four domestic producers of fatty alcohols expressed opposition to the petition. Sasol and Shell Chemical submitted written statements and appeared at the hearing; Cognis provided a written statement of opposition.[17]

Sasol stated that it is a U.S. producer of the subject product and that it is opposed to the petition. Sasol stated that U.S. production of fatty alcohols has been declining, leading to low capacity utilization rates and financial distress. According to Sasol, imports have been a key reason for the decline in U.S. production. Sasol claimed that lowering the duty rate on imports from GSP-eligible countries will encourage more imports, likely worsening the operating and financial positions of domestic producers. Finally, Sasol stated that the countries that would benefit from the requested duty-free

[14] Except as noted, information provided in this section is derived from the petition filed with the USTR, USITC hearing testimony, and briefs filed with the USITC.

[15] The 2009 UNDP ranking of countries by HDI has four categories of human development: very high, high, medium, and low. Brazil is in the high group – ranked 75th of 182 countries. Cape Verde, ranked 121st, is in the medium group. http://hdr.undp.org/en/statistics/ (accessed November 24, 2009).

[16] "Ultrapar Participações SA (Ultrapar) is a Brazil-based company operating in three sectors: fuel distribution through Ultragaz and Ipiranga, chemicals production through Oxiteno, and logistics services through Ultracargo." New York Stock Exchange. http://www.nyse.com/about/listed/ugp.html (accessed November 24, 2009).

[17] Procter & Gamble did not report its position on the petition.

status in the United States currently apply significant duties to fatty alcohol imported into their own markets.[18]

Shell Chemical (Shell) stated that it is one of the leading U.S. producers of the subject products, that it opposes the petition, and that it disagreed with some of the petitioner's arguments. First, Shell claimed that the principle of reciprocity is being violated by Brazil's recent increase in its import tariffs on fatty alcohols while Oleoquímica is requesting that lower tariffs be paid on its exports to the U.S. market.[19] Shell also questioned whether the product from Oleoquímica would satisfy the GSP program's value-added requirement, since the company imports the raw material from Southeast Asia for conversion into alcohol. Shell disputes the assertion that Oleoquímica's processes are more biodegradable and cleaner than processes based on petrochemicals. Additionally, Shell alleges that Oleoquímica's use of the state of Bahia's HDI to support its request is inappropriate because the entire country, including highly developed areas, would receive the same GSP treatment. Finally, Shell claims that imports of fatty alcohols have been increasing faster than domestic demand, causing U.S. producers to operate at lower-than-optimal capacity utilization rates.[20]

Shell stated that granting GSP treatment to these fatty alcohols would affect the company's viability by impacting both its captive consumption and merchant sales. Shell alleged that its merchant sales would be affected by the increased lower priced imports available to ethoxylators (the major downstream users). Additionally, Shell said that its own ethoxylation production (which drives captive consumption) would be affected by the lower priced ethoxylates available to soap and detergent manufacturers (the primary downstream users of ethoxylates) as a result of the cheaper ethoxylates derived from the lower priced and more plentiful imported alcohols.[21] Since many of Shell's customers are capable of using either oleochemical alcohol or petrochemical alcohol in the manufacturing of their downstream products, Shell said price is a major factor in determining which input is used.

Cognis stated that it is a U.S. producer of the subject products and it is opposed to the petition. Cognis stated that U.S. production and capacity utilization rates are already declining and that granting this petition would be detrimental to U.S. producers.[22]

[18] Sasol Co., written submission to the USITC, November 4, 2009, 2-3 and 5. The submissions by Shell and Sasol do not agree on the Brazilian duties. Shell claims that Brazil applies 14-percent ad valorem duties to imports of all fatty alcohols. Shell Chemical Co., written submission to the USITC, November 19, 2009, 4-6. Sasol claims that the 14 percent rate is applied to tariff number 3823.70 and that a proposal exists to increase the rate on tariff line 2905.17 from 2 to 12 percent ad valorem. Sasol Co., written submission to the USITC, November 4, 2009, 3 and 5.

[19] Brazil reportedly increased the tariff on fatty alcohols from 2 to 14 percent ad valorem. Shell Chemical Co., written submission to the USITC, November 6, 2009, 3.

[20] Shell Chemical Co., written submission to the USITC, November 6, 2009, 2–4.

[21] Shell Chemical Co., written submission to the USITC, November 19, 2009, 2–4.

[22] Cognis Corp., written submission to the USITC, November 11, 2009, 1.

CHAPTER 4
Aluminum Conductor Steel-Reinforced Cable and Wire

Addition[1]

HTS subheading	Short description	Col. 1 rate of duty as of 1/1/09 (percent ad valorem equivalent)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
7614.10.10[a]	Aluminum stranded wire and cables, with steel core, not insulated	4.9	Yes
[a]This HTS subheading is currently on the list of articles eligible for duty-free treatment under the provisions of the GSP for countries designated as Least Developed Beneficiary Developing Countries (LDBDC) (A+), as well as countries eligible for AGOA (D).			

The subject aluminum wire and cable is a specific type of high-capacity, large-diameter, high-strength stranded cable used in overhead power lines to transmit electric power. The outer strands are aluminum and are wound, using a rigid frame strander, around a reinforcing core of steel wire made from drawn steel wire rod. Aluminum is chosen for its excellent conductivity, low weight, and low cost. The center steel core provides extra strength to reduce sagging of in the transmission line.

Aluminum wire and cable are produced from aluminum rod and bar. Rod and bar are produced by heating a long, square aluminum ingot, progressively reducing its cross-section by passing it through a series of rollers, and eventually coiling the rod or bar. The coils are then softened through heat treatment, and the softened coils are pulled through progressively smaller dies on a wire-drawing machine to produce wire. Cable is produced by stranding several wires together into a single length.

Probable Economic Effect Advice

*   *   *   *   *   *   *

[1] The petitioner is Apar Industries Ltd. (India).

Profile of U.S. Industry and Market, 2004–08

According to industry sources, there are approximately four U.S. manufacturers of the subject aluminum conductor steel-reinforced (ACSR) wire and cable, as defined by this tariff category. The major customers for ACSR wire and cable are electric utilities of all types (investor-owned, municipal, and electrical cooperatives), which use ACSR wire and cable for transmission and distribution in the electric power grid. The demand for ACSR wire and cable is dependent on a number of factors, including: changes in industrial and consumer demand for electricity related to new housing construction and population growth in a geographical area; the construction of new high-voltage transmission lines to meet load increases; the granting of rate increases to electric power utilities by legislative and regulatory authorities as well as the right to expand their existing grid; regulatory authority to erect transmission lines to bring power from remote renewable energy sources into regions where it can tie into the existing grid; and the demand for replacement wire and cable.

U.S. ACSR wire and cable consumption increased by *** 2004–08 (table 4.1), due to increased economic growth during this period, expansion of housing construction with the requisite expansion of overhead power lines to supply this housing with electricity, and favorable regulatory conditions that permitted public utilities to increase rates to customers and to erect transmission lines. Canada and Mexico were the principal suppliers of ACSR wire and cable to the United States in 2008, supplying 75 percent and 15 percent, respectively, of imports. GSP-eligible nations supplied just 1 percent of total imports in 2008 (table 4.2).

TABLE 4.1 Aluminum conductor steel reinforced cable and wire (HTS subheading 7614.10.10): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2004–08

Item	2004	2005	2006	2007	2008
Producers	4	4	4	4	4
Employment (1,000 employees)	([a])	([a])	([a])	([a])	([a])
Shipments (1,000 $)	****	***	***	***	***
Exports (1,000 $)	5,782	4,654	4,275	10,587	11,513
Imports (1,000 $)	44,856	43,019	51,824	59,330	47,706
Consumption (1,000 $)	***	***	***	***	***
Import-to-consumption ratio (%)	***	***	***	***	***
Capacity utilization (%)	([a])	([a])	([a])	([a])	([a])

Source: Shipment data are estimated from data supplied by The Aluminum Association.

[a] Not available.

Apar Industries Ltd. (Apar), the petitioner, is located in Mumbai, India, and has factory locations in Silvassa and Nalagarh, India. According to Apar's petition, the firm's capacity to produce both ACSR cable and all–aluminum alloy conductors increased from 53,525 metric tons in 2005–06 to 97,097 metric tons in 2008–09, with production rising from 43,695 metric tons in 2005–06 to 88,214 metric tons in 2008–09. Accordingly, capacity utilization rose to 91 percent in 2008–09 from 81 percent in 2005–06.

According to the petitioner, 70 percent of its exports are sent to African nations and 30 percent to the rest of the world. In 2008–09, Apar stated that it exported 49,792 metric tons, of which 341 metric tons (or less than 1 percent) were exported to the United States.[2] According to Apar, the firm has a low cost structure because of the relatively low cost of labor.

Of GSP-eligible nations (table 4.2), Colombia[3] was a steady supplier of ACSR wire and cable during 2004–08, but accounted for no more than 4 percent of total U.S. imports of this article in any single year. On the other hand, Ecuador has only recently emerged as a supplier of ACSR wire and cable, supplying significant amounts starting in 2007, when imports from Ecuador[4] accounted for 1 percent of total imports of the article.

TABLE 4.2 Aluminum conductor steel reinforced cable and wire (HTS subheading 7614.10.10): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total Imports	% of GSP Imports	% of U.S. consumption
Grand total	47,706	100	([a])	***
Imports from GSP-eligible countries:				
Total	486	1	100	([b])
Colombia[c]	338	1	70	([b])
Ecuador[c]	104	0	21	([b])
Turkey	44	0	9	([b])
India	0	0	0	0

[a] Not available.
[b] Less than 0.5 percent.
[c] U.S. imports of aluminum conductor steel reinforced cable and wire from Colombia and Ecuador are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

[2] Although Apar reported that it exported the subject product to the United States during 2008 and 2009, no U.S. imports from India appear in official trade data.

[3] U.S. imports of ACSR wire and cable from Colombia are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

[4] U.S. imports of ACSR wire and cable from Ecuador are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

U.S. Imports and Exports

Data for total U.S. imports and exports of the subject aluminum conductor steel reinforced cable and wire are found in tables 4.3 and 4.4.

TABLE 4.3 Aluminum, stranded wire cables (HTS subheading 7614.10.10): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Canada	42,403,294	39,800,391	40,899,941	42,757,607	35,952,871	22,904,022	8,892,010
Mexico	1,398,065	1,927,655	3,522,729	6,644,407	7,580,157	3,603,875	3,457,639
China	46,107	0	2,640	930,934	3,018,870	2,421,301	441,478
Israel	0	13,500	664,567	1,469,370	400,944	219,747	965,004
Colombia[a]	673,353	1,086,151	2,148,051	1,830,893	338,350	99,035	68,843
Bahrain	0	0	1,043,172	1,552,233	164,880	164,880	21,848,801
Ecuador[a]	0	0	17,719	589,852	103,560	38,612	0
Taiwan	0	0	0	0	82,000	82,000	0
Turkey	190,613	0	0	0	44,486	0	0
United Kingdom	0	0	0	0	13,512	13,512	0
All Other	144,261	191,383	3,525,105	3,554,604	6,300	6,300	81,605
Total	44,855,693	43,019,080	51,823,924	59,329,900	47,705,930	29,553,284	35,755,380
Imports from GSP-eligible countries:							
Colombia[a]	673,353	1,086,151	2,148,051	1,830,893	338,350	99,035	68,843
Ecuador[a]	0	0	17,719	589,852	103,560	38,612	0
Turkey	190,613	0	0	0	44,486	0	0
India	2,160	0	0	33,368	0	0	0
Indonesia	0	0	0	0	0	0	0
Venezuela	49,684	0	46,284	29,395	0	0	0
Thailand	0	0	0	244,746	0	0	0
Brazil	92,417	176,092	0	0	0	0	0
Total	1,008,227	1,262,243	2,212,054	2,728,254	486,396	137,647	68,843

Source: Official statistics of the U.S. Department of Commerce.

[a] U.S. imports of aluminum conductor steel reinforced cable and wire are already duty free under the provisions of the Andean Trade Preference Act (ATPA).

TABLE 4.4 Aluminum, stranded wire, cables: U.S. exports of domestic merchandise, by market, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
Canada	552,726	1,781,646	197,494	949,319	2,823,821	1,715,013	1,330,612
Saudi Arabia	62,856	245,327	21,913	165,917	964,818	964,818	14,150
Turks & Caicos Is	29,432	0	117,275	93,785	948,212	876,785	6,065
Dominican Rep	93,671	27,714	108,736	143,902	577,511	124,122	0
Taiwan	35,160	12,757	18,670	23,475	543,381	503,477	6,000
Mexico	199,811	69,102	205,663	98,844	442,961	428,438	398,585
Venezuela	134,803	315,015	62,022	8,077	366,885	0	349,167
Trin & Tobago	16,942	49,044	14,171	203,424	351,450	73,282	136,641
India	0	34,501	117,593	188,355	342,800	0	2,770
Russia	0	0	175,603	641,456	306,949	238,949	503,945
All other	4,656,622	2,118,427	3,236,290	8,070,314	3,844,389	2,169,649	2,250,630
Total	5,782,023	4,653,533	4,275,430	10,586,868	11,513,177	7,094,533	4,998,565

Source: Official statistics of the U.S. Department of Commerce.

Positions of Interested Parties

Petitioner – Apar Industries Ltd. (Apar) stated that it hopes to increase its Indian production levels and more actively participate in the U.S. market with the granting of the GSP benefit. Granting of GSP status, according to the petitioner, would have no economic effect on the U.S. industry producing the like or directly competitive products and would greatly benefit U.S. consumers. According to the petitioner, lower labor costs allow it to produce the subject product at a low total cost. Furthermore, Apar said that its production capacity is large for the subject product and there is strong local demand in India, which can be leveraged to produce higher volumes, thus reaping increased economies of scale.

Opposition – Davis Wire Corp. said that it opposed the addition of ACSR to the list of products eligible for duty-free treatment under the GSP. Davis Wire said that it produces specialty steel wire products for use as the steel core in ACSR wire and cable and has production facilities in Irwindale, CA; Pueblo, CO; Niles, MI; and Kent, WA. Davis Wire sells its wire and strand to major U.S. manufacturers of ACSR wire and cable, which incorporate the product into finished ACSR wire and cable. As such, Davis said that demand for the steel wire produced by Davis is tied directly to the fortunes of the U.S. industry that makes ACSR wire and cable. According to Davis Wire, if U.S. end users were to reduce their orders for domestically produced ACSR wire and cable because of competition from imported GSP-eligible ACSR wire and cable, Davis' business and its investment in specialized equipment would be at significant risk.

Acccording to Davis Wire, India's two largest manufacturers, Apar and Sterlite Technologies Ltd. (Sterlite), are two of the top five aluminum conductor manufacturers in the world and have the capacity to produce over 500 million pounds (226,000 metric tons) of ACSR annually. Further, both firms have adopted increased exports as an important element of their business strategy.[5]

[5] Davis Wire Corp., written submission to the USITC, November 13, 2009, 3.

Southwire Co. states that it is a U.S. manufacturer of ACSR wire and cable and opposes granting duty-free status to the industry in India that manufactures ACSR wire and cable.[6] According to Southwire, the two leading Indian manufacturers, Apar and Sterlite, are among the five largest wire and cable companies in the world and both companies have made exporting a significant element of their business strategies. According to Southwire, the U.S. industry that manufactures ACSR wire and cable has ample production capacity to meet current U.S. demand and, in Southwire's case, has invested in expanded production capacity in anticipation of long-term growth in demand. According to Southwire, the industry in India has the potential to flood the U.S. market with ACSR wire and cable.

Southwire stated that the cost of ACSR wire and cable comprises only about 2 percent of the U.S. electric utility industry's annual capital investment in transmission and distribution. As a result, little cost savings to U.S. consumers would result from eliminating the current duty on ACSR wire and cable from GSP nations.

[6] Southwire Co., written submission to the USITC, November 4, 2009, 1.

CHAPTER 5
Certain Gold Necklaces and Chains

Removal (India)[1]

HTS subheading	Short description	Col. 1 rate of duty as of 1/1/09 (percent ad valorem equivalent)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
7113.19.21[a]	Gold rope necklaces and neck chains	5.0	Yes
7113.19.25[b]	Gold mixed link necklaces and neck chains	5.8	Yes

[a]HTS subheading 7113.19.21 was added to the list of articles eligible for duty-free treatment under the provisions of the GSP for countries designated as least-developed beneficiary countries (A) in 1981.
[b]HTS subheading 7113.19.25 was added to the list of articles eligible for duty-free treatment under the provisions of the GSP for countries designated as least-developed beneficiary countries (A) in 1981. A competitive need limit waiver for India was granted in 2001.

The products covered here are necklaces and neck chains designed to be worn for adornment. These necklaces and neck chains are finished (ready-to-wear) and are made of gold, in either a rope style or mixed links. Rope necklaces and neck chains are a series of small oval links that are arranged as spiral design resembling woven rope. Mixed link necklaces and neck chains are usually made up of a series of loops, which can include a variety of sizes and lengths.

Probable Economic Effect Advice

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[1] The petitioner is the Manufacturing Jewelers & Suppliers of America, Inc.

Profile of U.S. Industry and Market, 2004–08

The petitioners reported that there are currently 10 firms producing gold chains and necklaces in the United States.[1] U.S. production and exports of the subject products decreased substantially during 2004–08, while imports increased (table 5.1). Hearing witnesses stated that they have seen a decline in U.S. exports of gold chains to India because pairing U.S.-made chains with Indian pendants in India results in a dutiable product for purposes of importation into the United States. If the product is entirely of Indian origin, however, it is not subject to duty.[2] Further, capacity utilization fell sharply during 2007–08. In part due to the downward trend in the U.S. economy during the period under consideration, the U.S. precious jewelry industry saw companies going out of business, consolidation, and falling employment.

TABLE 5.1 Certain gold necklaces and chains (HTS subheadings 7113.19.21 and 7113.19.25): U.S. producers, employment, shipments, trade, consumption, and capacity utilization, 2004–08

Item	2004	2005	2006	2007	2008
Producers (number)	11	11	11	10	10
Employment	1,300	1,290	1,290	1,178	1,027
Production (1,000 $)	140,000	135,000	120,000	100,000	64,000
Exports (1,000 $)[a]	27,000	26,000	25,000	22,000	7,000
Imports (1,000 $)	102,494	126,112	143,991	159,925	233,917
Consumption (1,000 $)	215,954	235,112	238,991	237,925	290,917
Import-to-consumption ratio (%)	47	54	60	67	80
Capacity utilization (%)	90	90	90	80	34

Source: Producers, employment, production, exports, and capacity utilization estimated by Commission staff based on industry information; imports compiled from official statistics of the U.S. Department of Commerce.

[a] Export data are estimated by Commission staff from a basket category that contains products in addition to the subject products.

According to the U.S. industry, the substantial increase in U.S. imports of the subject products between 2007 and 2008 was largely attributable to importers switching from importing certain products (principally from India) under a dutiable HTS category to importing these products under the subject HTS subheadings, which are duty-free for

[1] Meeks, Sheppard, Leo & Pillsbury, on behalf of the Manufacturing Jewelers & Suppliers of America, Inc, “Petition for Removal,” written submission to the USTR, June 24, 2009, and “Petition for the Termination of CNL Waiver,” written submission to the USTR, June 24, 2009.

[2] USITC hearing transcript, November 16, 2009, 13, 56, and 57 (testimony of David Cochran, Manufacturing Jewelers and Suppliers of America).

GSP-eligible countries.[3] Specifically, gemstones and pendants reportedly have been attached to gold chains and necklaces to qualify such items for entry under the subject HTS categories.

The price of gold on the world market is the overwhelming determinant of the final cost of and demand for an article of gold jewelry. The price of gold during 2004–08 increased from a low of $409.17 per troy ounce in 2004 to a high of $871.96 per troy ounce in 2008. In 2009, gold prices reached $1,100 per troy ounce. Because the price is high for quality gold jewelry and jewelry is considered to be a luxury item in the United States, demand is also dependent upon a strong economy and consumer confidence. According to a representative of the Manufacturing Jewelers and Suppliers of America, "The pendant itself accounts for about 90 percent of the value of a necklace, the neck chain being the other 10 percent."[4]

GSP Import Situation, 2008

India, Peru, China, France, and Italy are the most significant sources of U.S. imports of the subject products, with India being the largest GSP-eligible source (table 5.2 and table 5.3). U.S. imports from India increased significantly during 2004–08, and the production facilities in India are considered to be state-of-the-art. In 2008, India accounted for a little over one-half of total U.S. imports of the subject gold necklaces and chains.

TABLE 5.2 Gold rope necklaces and neck chains (HTS subheading 7113.19.21): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	121,576	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	97,345	66	100	([b])
India	60,116	49	75	([b])

[a] Not applicable.
[b] Not applicable, as available consumption data are for all gold chains, both rope and mixed link.

[3] In 2008, India was removed from GSP eligibility for HTS subheadings 7113.19.29 and 7113.19.50. Subsequent to the removal of these HTS subheadings from GSP eligibility, a U.S. Customs ruling was issued on the classification of certain Indian gold chains ("S-stations" and rope chains) (see NY Ruling No. 44686, Customs and Border Protection (December 15, 2009)), verifying that the items in question should be entering the United States under HTS subheadings 7113.19.2180 and 7113.19.2580 (which are covered under the current GSP removal petition). The petitioner argued that U.S. imports under the subject HTS subheadings from India increased significantly after India lost GSP eligibility for HTS subheadings 7113.19.29 and 7113.19.50. The petitioner further stated that India is circumventing the loss of GSP eligibility for HTS subheadings 7113.19.29 and 7113.19.50 by entering similar products into the U.S. market under the subject HTS subheadings. Staff were unable to verify whether imports previously entering the U.S. market under dutiable HTS subheadings are now entering free of duty under the subject HTS subheadings.

[4] USITC hearing transcript, November 16, 2009, 12 (testimony of David Cochran, Manufacturing Jewelers and Suppliers of America).

TABLE 5.3 Gold mixed link necklaces and neck chains (HTS subheading 7113.19.25): U.S. imports and share of U.S. consumption, 2008

Item	Imports 1,000 $	% of total imports	% of GSP imports	% of U.S. consumption
Grand total	112,341	100	([a])	([b])
Imports from GSP-eligible countries:				
Total	80,087	70	100	([b])
India	63,877	57	82	([b])

Note: A competitive need limit waiver for India was granted in 2001.

[a] Not applicable.
[b] Not applicable as available consumption data are for all gold chains, both rope and mixed link.

U.S. Imports and Exports

Data for total U.S. imports of the subject gold necklaces and chains are found in tables 5.4, 5.5, and 5.6; U.S. export data are not provided for the subject products, as the products are only a small fraction of a larger basket category. Therefore, estimates are not readily available.

TABLE 5.4 Certain gold necklaces and chains (HTS subheadings 7113.19.21 and 7113.19.25): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

						January–July	
Country	2004	2005	2006	2007	2008	2008	2009
India	4,764,111	6,099,962	5,867,488	29,528,040	123,993,681	32,115,112	67,704,909
Peru	13,689,482	17,606,089	20,910,671	28,213,040	18,842,134	9,918,250	5,317,297
China	21,186,454	22,942,173	29,739,915	23,714,271	17,056,543	6,650,617	5,128,442
Italy	16,211,043	20,727,177	20,311,407	17,728,155	12,619,820	5,948,565	3,757,061
France	51,195	86,353	213,662	65,597	10,902,986	28,611	185,817
Indonesia	464,914	4,026,941	9,037,832	10,173,105	9,519,472	6,232,706	1,720,239
Thailand	3,186,942	3,405,925	4,739,126	5,732,598	8,303,940	4,575,663	2,715,512
Hong Kong	8,929,242	11,215,784	13,112,916	11,012,280	7,675,965	4,323,874	2,025,500
Turkey	7,077,750	7,763,161	5,595,646	4,968,977	7,414,203	2,993,287	2,534,317
Bolivia	10,770,559	14,167,590	10,927,498	11,607,284	6,403,260	3,163,631	4,914,193
All other	16,162,072	18,070,494	23,534,425	17,181,845	11,185,149	6,222,078	4,927,151
Total	102,493,764	126,111,649	143,990,586	159,925,192	233,917,153	82,172,394	100,930,438
Imports from GSP-eligible countries:							
India	4,764,111	6,099,962	5,867,488	29,528,040	123,993,681	32,115,112	67,704,909
Peru[a]	13,689,482	17,606,089	20,910,671	28,213,040	18,842,134	9,918,250	0
Indonesia	464,914	4,026,941	9,037,832	10,173,105	9,519,472	6,232,706	1,720,239
Thailand	3,186,942	3,405,925	4,739,126	5,732,598	8,303,940	4,575,663	2,715,512
Turkey	7,077,750	7,763,161	5,595,646	4,968,977	7,414,203	2,993,287	2,534,317
Bolivia	10,770,559	14,167,590	10,927,498	11,607,284	6,403,260	3,163,631	4,914,193
Philippines	59,360	105,691	235,183	727,080	1,307,273	627,208	267,546
South Africa	595,927	591,409	4,291,856	1,802,673	738,586	594,856	226,646
Zimbabwe	5,122,807	2,742,879	3,303,922	2,256,449	408,522	408,522	0
Croatia	29,564	47,102	116,349	0	222,091	151,314	1,142,826
Tunisia	0	0	302,018	385,037	95,850	42,784	0
All other	2,399,444	599,368	851,917	991,870	183,625	152,898	389,819
Total	48,160,860	57,156,117	66,179,506	96,386,153	177,432,637	60,976,231	81,616,007

Source: Official statistics of the U.S. Department of Commerce.

[a] As of February 1, 2009, the United States-Peru Trade Promotion Agreement became effective; therefore, Peru is no longer designated as a beneficiary country eligible for duty-free treatment under the provisions of the U.S. Generalized System of Preferences.

TABLE 5.5 Gold rope necklaces and neck chains (HTS subheading 7113.19.21): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

Country	2004	2005	2006	2007	2008	January-July 2008	January-July 2009
India	913,579	365,266	273,260	3,445,068	60,116,333	6,037,744	27,159,762
Peru	12,092,353	16,274,481	20,233,329	27,059,902	17,105,530	8,778,266	5,176,831
France	30,544	62,358	25,234	5,189	10,863,889	0	183,087
China	16,497,118	14,613,384	18,371,895	12,317,468	8,915,525	3,156,151	2,932,120
Turkey	2,545,894	2,282,780	3,147,104	3,860,747	6,504,320	2,427,464	1,798,425
Bolivia	10,770,559	14,167,590	10,927,498	11,607,284	6,403,260	3,163,631	4,914,193
Thailand	970,041	1,028,533	1,750,076	2,172,738	5,510,429	2,793,855	1,505,318
Hong Kong	1,746,735	2,554,148	3,198,071	2,785,310	1,672,314	638,643	479,668
Philippines	0	10,326	109,720	614,387	1,258,643	607,402	252,772
Italy	3,160,255	6,186,577	2,004,277	1,603,959	1,188,922	565,690	434,088
All other	7,392,579	10,256,067	6,496,819	2,532,307	2,036,693	914,999	1,521,373
Total	56,119,657	67,801,510	66,537,283	68,004,359	121,575,858	29,083,845	46,357,637
Imports from GSP-eligible countries:							
India	913,579	365,266	273,260	3,445,068	60,116,333	6,037,744	27,159,762
Peru[a]	12,092,353	16,274,481	20,233,329	27,059,902	17,105,530	8,778,266	0
Turkey	2,545,894	2,282,780	3,147,104	3,860,747	6,504,320	2,427,464	1,798,425
Bolivia	10,770,559	14,167,590	10,927,498	11,607,284	6,403,260	3,163,631	4,914,193
Thailand	970,041	1,028,533	1,750,076	2,172,738	5,510,429	2,793,855	1,505,318
Philippines	0	10,326	109,720	614,387	1,258,643	607,402	252,772
Indonesia	45,020	359,361	18,320	246,935	204,329	48,657	175,311
Croatia	29,564	43,206	37,040	0	169,243	151,314	422,067
Egypt	0	0	0	73,720	71,015	65,885	0
South Africa	11,865	53,112	0	0	2,840	2,840	0
Nepal	0	0	0	8,734	0	0	2,016
All other	4,454,934	598,660	19,108	183,328	0	0	83,354
Total	31,833,809	35,183,315	36,515,455	49,272,843	97,345,942	24,077,058	36,313,218

Source: Official statistics of the U.S. Department of Commerce.

[a] As of February 1, 2009, the United States-Peru Trade Promotion Agreement became effective; therefore, Peru is no longer designated as a beneficiary country eligible for duty-free treatment under the provisions of the U.S. Generalized System of Preferences.

TABLE 5.6 Gold mixed link necklaces and neck chains (HTS subheading 7113.19.25): U.S. imports for consumption by principal sources, 2004–08, January–July 2008, and January–July 2009 ($)

Country	2004	2005	2006	2007	2008	January-July 2008	January-July 2009
India	3,850,532	5,734,696	5,594,228	26,082,972	63,877,348	26,077,368	40,545,147
Italy	13,050,788	14,540,600	18,307,130	16,124,196	11,430,898	5,382,875	3,322,973
Indonesia	419,894	3,667,580	9,019,512	9,926,170	9,315,143	6,184,049	1,544,928
China	4,689,336	8,328,789	11,368,020	11,396,803	8,141,018	3,494,466	2,196,322
Hong Kong	7,182,507	8,661,636	9,914,845	8,226,970	6,003,651	3,685,231	1,545,832
Thailand	2,216,901	2,377,392	2,989,050	3,559,860	2,793,511	1,781,808	1,210,194
Canada	346,279	431,842	3,058,282	4,777,063	2,487,231	1,237,178	374,157
Peru	1,597,129	1,331,608	677,342	1,153,138	1,736,604	1,139,984	140,466
Oman	127,540	0	66,738	41,664	928,067	740,474	439,906
Singapore	301,103	108,266	82,794	5,125	922,270	196,817	305,205
All Other	12,592,098	13,127,730	16,375,362	10,626,872	4,705,554	3,168,299	2,947,671
Total	46,374,107	58,310,139	77,453,303	91,920,833	112,341,295	53,088,549	54,572,801
Imports from GSP-eligible countries:							
India	3,850,532	5,734,696	5,594,228	26,082,972	63,877,348	26,077,368	40,545,147
Indonesia	419,894	3,667,580	9,019,512	9,926,170	9,315,143	6,184,049	1,544,928
Thailand	2,216,901	2,377,392	2,989,050	3,559,860	2,793,511	1,781,808	1,210,194
Peru[a]	1,597,129	1,331,608	677,342	1,153,138	1,736,604	1,139,984	0
Turkey	4,531,856	5,480,381	2,448,542	1,108,230	909,883	565,823	735,892
South Africa	584,062	538,297	4,291,856	1,802,673	735,746	592,016	226,646
Zimbabwe	1,695,828	2,234,072	3,303,922	2,256,449	408,522	408,522	0
Tunisia	0	0	302,018	385,037	95,850	42,784	0
Cambodia	335,272	362,571	460,130	213,778	62,396	62,396	114,293
Croatia	0	3,896	79,309	0	52,848	0	720,759
Philippines	59,360	95,365	125,463	112,693	48,630	19,806	14,774
All other	1,036,217	146,944	372,679	512,310	50,214	24,617	190,156
Total	16,327,051	21,972,802	29,664,051	47,113,310	80,086,695	36,899,173	45,302,789

Source: Official statistics of the U.S. Department of Commerce.

[a] As of February 1, 2009, the United States-Peru Trade Promotion Agreement became effective; therefore, Peru is no longer designated as a beneficiary country eligible for duty-free treatment under the provisions of the U.S. Generalized System of Preferences.

Positions of Interested Parties

Petitioner – The Manufacturing Jewelers & Suppliers of America (MJSA), Inc. is a trade association that represents more than 68,000 workers and has over 1,500 members.[5] MJSA requested the removal of HTS subheading 7113.19.21 from GSP eligibility immediately for India and also the removal of HTS subheading 7113.19.25 from CNL waiver status for India. According to MJSA, it petitioned for the removal of India from eligibility for these two subheadings due to drastically changed circumstances in the gold jewelry necklace and chain industry in the United States, including companies going out of business, consolidation, and falling employment. MJSA reported that the changed circumstances were, in part, a result of a massive shift of imports of gold pendant jewelry set with precious and semi-precious stones from dutiable HTS subheadings to the subheadings that are duty-free under GSP. MJSA asserted that since a decision by U.S. Customs and Border Protection to treat pendants imported on chains as necklaces, importers have taken advantage of "tariff engineering" to maintain the duty-free GSP status of Indian gold jewelry that was thought to have been removed from GSP eligibility in prior reviews.[6] MJSA stated that this shift has led to a trade "distortion" in the chain categories.[7]

Support – Cookson Precious Metals (CPM) Division said that it is a leading manufacturer and supplier of precious-jewelry wrought products, findings and components, and chain to the global jewelry industry. CPM said that it supports the petition to remove GSP treatment for certain gold necklaces and chains from India. CPM stated that its company has seen a dramatic decline in demand for their products due to competition from imports, particularly from India. CPM indicated that business from its core customers has been in rapid decline, while the customers' shift to imports has increased dramatically. To meet this competition, CPA reported that it had consolidated manufacturing facilities, implemented new technology, trained workers, and developed stronger sales and distribution systems. CPM asserts that the switch to the use of two chain subheadings that have duty-free status from the gold jewelry subheading for which India recently lost GSP eligibility shows how Indian manufacturers have used a "Customs loophole" to their benefit.[8]

Support – National Chain Group (NCG) said that it supports the removal of certain gold necklaces and chains from India from GSP eligibility. NCG said that it is one of the leading manufacturers of chain both in the United States and worldwide. NCG indicated that the Indian products coming into the United States under the duty-free provisions of the GSP have negatively affected the U.S. industry, resulting in a steady decrease in sales and market share. NCG stated that it has tried to overcome India's advantage by offering quality products, excellent delivery, and fair prices to offset the change in duty that favors India, but said its efforts have been to no avail.[9]

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[5] USITC hearing transcript, November 16, 2009, 10 (testimony of Jeffrey Meeks).

[6] USITC hearing transcript, November 16, 2009, p. 8 (testimony of Jeffrey Meeks).

[7] Manufacturing Jewelers & Suppliers of America, Inc., "Petition for Expedited Removal of HTS 7113.1921 from India" and "Petition for Termination of CNL Waiver of HTS 7113.1925 from India," written submissions to the USTR, June 24, 2009.

[8] Lawrence A. DeMichele, on behalf of Cookson Precious Metals Division, written submission to the USITC, November 4, 2009.

[9] Tracy Botsford, on behalf of the National Chain Group, written submission to the USITC, November 3, 2009.

National Chain Group also added that it is no longer able to sell its products to "large volume retailers in the U.S. since a duty of almost 6% would be placed on the diamond or colored stone pendants coming from India if they did not have an Indian chain on them."[10]

[10] National Chain Group, written submission to the USITC, November 3, 2009, 1.

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APPENDIX A
USTR Request Letter

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

DOCKET NUMBER
2691
Office of the Secretary
Int'l Trade Commission

OCT 16 2009

RECEIVED
OFFICE OF THE SECRETARY
U.S. INTL TRADE COMM
2009 OCT 19 AM 11:12

The Honorable Shara Aranoff
Chairman
United States International Trade Commission
500 E Street, S.W.
Washington, D.C. 20436

Dear Chairman Aranoff:

The Trade Policy Staff Committee (TPSC) has announced in the *Federal Register* its decision to accept certain product petitions for the 2009 Annual Review for modification of the Generalized System of Preferences (GSP). Assuming that Congress extends the GSP program, modifications to the GSP program that may result from this review are expected to be announced on or before June 30, 2010, and become effective as of the date of announcement. In this connection, I am making the request set out below.

In accordance with sections 503(a)(1)(A), 503(e) and 131(a) of the Trade Act of 1974, as amended ("the 1974 Act"), and pursuant to the authority of the President delegated to the United States Trade Representative by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, I hereby notify the Commission that the articles identified in Part A of the enclosed annex are being considered for eligibility when imported from all GSP beneficiaries as set forth in section 503(a)(1)(A) of the 1974 Act. I further notify the Commission that the articles listed in Part B of the enclosed annex are being considered for removal from eligibility for duty-free treatment under the GSP program from the specified country.[2]

In accordance with sections 503(a)(1)(A), 503(e) and 131(a) of the 1974 Act, and under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, I request that the Commission provide its advice, with respect to the articles identified in Part A of the enclosed annex, as to the probable economic effect of the elimination of U.S. duties when imported from all beneficiary developing countries under the GSP program on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers.

Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, I further request, with respect to articles listed in Part B of the enclosed annex, that the Commission provide its advice as to the probable economic effect of the removal from eligibility for duty-free treatment under the GSP program for such articles from the specified countries on U.S. industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers.

I also request, pursuant to section 332(g) of the Tariff Act of 1930, that the Commission provide advice with respect to whether like or directly competitive products were being produced in the United States on January 1, 1995, with respect to the articles identified in Parts A and B.

[2] Consideration of petitions for competitive need limit waivers may be addressed at a later date with a separate request letter.

To the extent possible, I would appreciate it if the probable economic effect advice and statistics (profile of the U.S. industry and market and U.S. import and export data) and any other relevant information or advice were provided separately and individually for each U.S. Harmonized Tariff Schedule subheading for all the cases in these requests.

I direct you to mark as "Confidential" those portions of the Commission's report and related working papers that contain the Commission's advice on the probable economic effect on the States industries producing like or directly competitive articles, on U.S. imports, and on U.S. consumers. All other parts of the report are unclassified, but the overall classification marked on the front and back covers of the report should be "Confidential" to conform to the confidential sections contained therein. All confidential business information contained in the report should be clearly identified.

I would greatly appreciate it if the Commission could provide the requested advice, including those portions indicated as "Confidential" to my Office by no later than January 21, 2010, assuming that Congress extends the GSP program. Once the Commission's confidential report is provided to my Office, and we review and approve the classification marking, the Commission should issue, as soon as possible thereafter, a public version of the report containing only the unclassified information, with any confidential business information deleted.

The Commission's assistance in this matter is greatly appreciated.

Sincerely,

Ron Kirk

Ronald Kirk

Annex

The Harmonized Tariff Schedule of the United States (HTS) subheadings listed below have been accepted as product petitions for the 2009 Generalized System of Preferences (GSP) Annual Review for modification of the GSP. The tariff nomenclature in the HTS for the subheadings listed below are definitive; the product descriptions in this list are *for informational purposes only* (except in those cases where only part of a subheading is the subject of a petition). The descriptions below are not intended to delimit in any way the scope of the subheading. The HTS may be viewed on http://www.usitc.gov/tata/index.htm.

A. Petitions for addition of a product to the list of eligible products for the Generalized System of Preferences

Accepted Case	HTS Subheading	Brief Description	Petitioner
2009-01	0710.22.40	Beans nesi, uncooked or cooked by steaming or boiling in water, frozen, reduced in size (green beans, lima beans, misc.)	Gov. of Arab Republic of Egypt
2009-02	0710.90.91	Mixtures of vegetables nesi, uncooked or cooked by steaming or boiling in water, frozen	Gov. of Arab Republic of Egypt
2009-03	2905.17.00	Dodecan-1-ol (Lauryl alcohol); hexadecan-1-ol (Cetyl alcohol); octadecan-1-ol (Stearyl alcohol)	Oleoquímica Indústria e Comércio de Produtos Químicos Ltda., Brazil
2009-04	3823.70.40	Industrial fatty alcohols, other than oleyl, derived from fatty substances of animal or vegetable origin	Oleoquímica Indústria e Comércio de Produtos Químicos Ltda., Brazil
2009-05	7614.10.10	Aluminum stranded wire, cables & the like w/steel core, not electrically insulated, not fitted with fittings & not made up into articles	Apar Industries, Ltd., India

B. Petitions to remove duty-free status from a beneficiary developing country for a product on the list of eligible articles for the Generalized System of Preferences

Accepted Case No.	HTS Subheading	Brief Description	Petitioner
2009-06	7113.19.21 (from India)	Gold rope necklaces and neck chains	U.S. Manufacturing Jewelers & Suppliers of America, Inc.
2008-07	7113.19.25 (from India)	Gold mixed link necklaces and neck chains (remove Competitive Need Limitation Waiver, thus removing from duty-free status)	U.S. Manufacturing Jewelers & Suppliers of America, Inc.

APPENDIX B
Commission’s Federal Register Notice of Institution

published pursuant to section 207.62 of the Commission's rules.

Issued: October 21, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–25675 Filed 10–23–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–507]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of Additions and Removals

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: Following receipt of a request on October 16, 2009 from the United States Trade Representative (USTR) under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332 (g)), the U.S. International Trade Commission (Commission) instituted investigation No. 332–507, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of Additions and Removals.*

DATES: *November 4, 2009:* Deadline for filing requests to appear at the public hearing.

November 5, 2009: Deadline for filing pre-hearing briefs and statements.

November 16, 2009: Public hearing.

November 19, 2009: Deadline for filing post-hearing briefs and statements and other written submissions.

January 21, 2010: Transmittal of report to the Office of the United States Trade Representative.

ADDRESSES: All Commission offices, including the Commission's hearing rooms, are located in the United States International Trade Commission Building, 500 E Street SW., Washington, DC. All written submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW., Washington, DC 20436. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://www.usitc.gov/secretary/edis.htm.*

FOR FURTHER INFORMATION CONTACT: Information specific to this investigation may be obtained from Gail Burns, Project Leader, Office of Industries (202–205–2501 or *gail.burns@usitc.gov*) or Philip Stone, Deputy Project Leader, Office of Industries (202–205–3424 or *philip.stone@usitc.gov*). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202–205–3091 or *william.gearhart@usitc.gov*). The media should contact Margaret O'Laughlin, Office of External Relations (202–205–1819 or *margaret.olaughlin@usitc.gov).* Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Background: As requested by the USTR, in accordance with sections 503(a)(1)(A), 503(e), and 131(a) of the Trade Act of 1974, as amended (19 U.S.C. 2463(a)(1)(A), 19 U.S.C. 2463(e), and 19 U.S.C. 2151(a)), and pursuant to the authority of the President delegated to the United States Trade Representative by sections 4(c) and 8(c) and (d) of Executive Order 11846 of March 31, 1975, as amended, and pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on U.S. imports and consumers of the elimination of U.S. duties for all beneficiary developing countries under the GSP program on articles provided for in HTS subheadings 0710.22.40, 0710.90.91, 2905.17.00, 3823.70.40, and 7614.10.10. Also, as requested by USTR, pursuant to section 332(g) of the Tariff Act of 1930, the Commission will provide advice as to the probable economic effect on U.S. industries producing like or directly competitive articles, on U.S. imports, and on consumers of the removal of India from GSP eligibility for HTS subheadings 7113.19.21 and 7113.19.25. As requested by the USTR, the Commission will provide its advice by January 21, 2010. The USTR indicated that those sections of the Commission's report and related working papers that contain the Commission's advice will be classified as ''confidential.''

Public Hearing: A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC, beginning at 9:30 a.m. on November 16, 2009. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m. November 4, 2009. Any pre-hearing briefs and other statements relating to the hearing should be filed with the Secretary not later than 5:15 p.m. November 5, 2009, and all post-hearing briefs and statements and any other written submissions should be filed with the Secretary not later than 5:15 p.m. November 19, 2009. All requests to appear and pre- and post-hearing briefs and statements must be filed in accordance with the requirements in the ''Written Submissions'' section below. In the event that, as of the close of business on November 4, 2009, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Persons interested in learning whether the hearing has been cancelled should call the Office of the Secretary after November 5, 2009, at 202–205–2000.

Written Submissions: In lieu of or in addition to participating in the hearing, interested parties are invited to file written submissions concerning this investigation. All such submissions should be addressed to the Secretary and should be received not later than 5:15 p.m. November 19, 2009 (*see* earlier dates for filing requests to appear and for filing pre-hearing briefs and statements). All written submissions must conform with the provisions of section 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 requires that a signed original (or a copy so designated) and fourteen (14) copies of each document be filed. In the event that confidential treatment of a document is requested, at least four (4) additional copies must be filed in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). The Commission's rules authorize filing submissions with the Secretary by facsimile or electronic means only to the extent permitted by section 201.8 of the rules (see Handbook for Electronic Filing Procedures, *http://www.usitc.gov/secretary/fed_reg_notices/rules/documents/handbook_on_electronic_filing.pdf*). Persons with questions regarding electronic filing should contact the Secretary (202–205–2000).

Any submissions that contain confidential business information must also conform with the requirements of section 201.6 of the *Commission's Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the ''confidential'' or ''non-confidential'' version, and that the confidential business information be clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available in the Office of the Secretary to the Commission for inspection by interested parties. The Commission may include some or all of the confidential business information submitted in the course of the investigation in the report it sends to the USTR.

As requested by the USTR, the Commission will publish a public version of the report, which will exclude portions of the report that the USTR has classified as well as any business confidential information.

Issued: October 21, 2009.

By order of the Commission.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. E9–25669 Filed 10–23–09; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–613]

In the Matter of: Certain 3G Mobile Handsets and Components Thereof; Notice of Commission Determination To Review in Part A Final Determination Finding No Violation of Section 337 and on Review To Affirm the Administrative Law Judge's Determination of No Violation; Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to review in part the presiding administrative law judge's (''ALJ'') final initial determination (''ID'') issued on August 31, 2009, finding no violation of Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the above-captioned investigation. Specifically, the Commission has determined to review portions of the ALJ's claim construction and invalidity analysis, but to affirm the ALJ's determination of no violation, and has terminated the investigation.

FOR FURTHER INFORMATION CONTACT: Megan M. Valentine, Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 708–2301. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *http://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *http://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted Inv. No. 337–TA–613 on September 11, 2007, based on a complaint filed by InterDigital Communications Corp. of King of Prussia, Pennsylvania and InterDigital Technology Corp. of Wilmington, Delaware (collectively, ''InterDigital'') on August 7, 2007. The complaint, as amended, alleged violations of Section 337 of the Tariff Act of 1930 (19 U.S.C. **1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain 3G mobile handsets and components by reason of infringement of certain claims of U.S. Patent Nos. 7,117,004 (''the '004 patent''); 7,190,966 (''the '966 patent''); and 7,286,847 (''the '847 patent'') (''the Power Ramp-Up Patents''); and 6,693,579 (''the '579 patent''). The notice of investigation named Nokia Corporation of Finland and Nokia Inc. of Irving, Texas (collectively, ''Nokia'') as respondents.

On August 14, 2009, the ALJ issued his final ID, finding no violation of Section 337. In particular, he found that the asserted claims of the patents-in-suit are not infringed and that they are not invalid. The ALJ further found that a domestic industry exists with respect to the patents-in-suit. Additionally, the ALJ found that there is no prosecution laches relating to the '004, '966, and '847 patents and that the '579 patent is enforceable. The ALJ further found that there is no waiver and patent misuse with respect to the patents-in-suit. The ALJ also issued a Recommended Determination on remedy and bonding, recommending that, in the event a violation of Section 337 is found, the appropriate remedy is a limited exclusion order barring entry of infringing 3G mobile handsets and components thereof and that it would also be appropriate to issue various cease and desist orders. The ALJ also recommended that there is no evidence to support the issuance of a bond during the period of Presidential review.

On August 31, 2009, InterDigital filed a petition for review, challenging certain aspects of the final ID, and Nokia filed a contingent petition for review, challenging other aspects of the final ID. On September 8, 2009, Nokia filed a response to InterDigital's petition for review, and InterDigital filed a response to Nokia's contingent petition for review. The Commission investigative attorney filed a joint response to both InterDigital's and Nokia's petitions on September 8, 2009.

Having examined the record of this investigation, including the ALJ's final ID, the petitions for review, and the responses thereto, the Commission has determined to review the subject ID in part. Specifically, the Commission has determined to review the ALJ's claim construction of the terms ''synchronize,'' found in claims 5, 6, 9, and 11 of the '847 patent, and ''access signal,'' found in claim 59 of the '004 patent and claims 6, 9, and 11 of the '847 patent. The Commission has also determined to review the ALJ's validity determinations with respect to the four asserted patents. On review, we affirm the ALJ's determination of no violation, but take no position with regard to the term ''synchronize'' and validity.

In addition, the Commission modifies the ALJ's construction of ''access signal'' to clarify that his construction does not read out the situation where the ''access signal'' may continue to be transmitted after the power ramp-up procedure ends. The ID limits the transmission of the ''access signal'' to the power ramp-up procedure, finding the transmission does not continue during the remainder of the call setup process. The Commission agrees that the ''access signal'' is transmitted during the power ramp-up procedure and that the ''access signal'' is a separate transmission from any other call set up messages that a subscriber unit pursuant to the Power Ramp-Up Patents transmits to a base station during a communication event. The Commission finds, however, that the '004 and '847 patents do not require that the transmission of the ''access signal'' ends when the power ramp-up procedure ends.

The Commission has determined not to review the remaining issues decided in the ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in section 210.42 of the Commission's Rules of Practice and Procedure (19 CFR 210.42).

APPENDIX C
Calendar of Witnesses for the November 16, 2009 Hearing

CALENDAR OF PUBLIC HEARING

Those listed below appeared as witnesses at the United States International Trade Commission's hearing:

Subject:	Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences, 2009 Review of Additions and Removals
Inv. No.:	332-507
Date and Time:	November 16, 2009 - 9:30 a.m.

Sessions were held in connection with this investigation in the Main Hearing Room (room 101), 500 E Street, S.W., Washington, D.C.

ORGANIZATION AND WITNESS: **PRODUCT:**

Certain Gold Jewelry Items
7113.19.21 & 7113.19.25

Meeks, Sheppard, Leo & Pillsbury (Petitioner, In Favor of Removal of India)
Fairfield, CT
on behalf of

Manufacturing Jewelers & Suppliers of America
Attleboro Falls, MA

David W. Cochran, President and CEO

Jeffrey A. Meeks) – OF COUNSEL

Cookson Precious Metals and Affiliates (Petitioner, In Favor of Removal of India)
Attleboro, MA

Lawrence A. DeMichele, Sr. Executive Vice President

National Chain Group (Petitioner, In Favor of Removal of India)
Warwick, RI

Tracy Botsford, Vice President

ORGANIZATION AND WITNESS:	**PRODUCT:**
	Fatty Alcohols ***2905.17.00 & 3823.70.40***
Sasol Olefins & Surfactants Houston, TX	(In Opposition to Addition)
Eric Stouder, Manager, Global Alcohols	
King & Spalding Washington, D.C. on behalf of	(In Opposition to Addition)
Shell Chemical LP ("Shell Chemical")	
Jim Crump, Commercial Development Manager, Shell Chemical	
Stephen A. Jones) – OF COUNSEL	

-END-

APPENDIX D
Model for Evaluating the Probable Economic Effect of Changes in the GSP

MODEL FOR EVAUATING THE
PROBABLE ECONOMIC EFFECT OF CHANGES IN GSP STATUS

*   *   *   *   *   *   *