

Global Trade Alert

NEVILLE PETERSON LLP

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Congress Approves GSP Renewal, Extension

Retroactive Refunds Available for Entries Since 1/1/2011

On October 13, 2011, the Congress approved H.R. 2832, a bill which (1) renews and extends the Generalized System of Preferences, (2) increases the Merchandise Processing Fee (MPF) on imports, and (3) renews and amends the Trade Adjustment Assistance (TAA) Programs. This Memorandum discusses the GSP aspects of the bill, which President Obama is expected to sign into law imminently.

GSP Renewed, Extended

Section 1(a) of the bill extends the GSP, which had expired on December 31, 2010 through **July 31, 2013**.

The renewal of the GSP will be effective for goods imported on and after fifteen (15) days from the date the bill is signed into law.

Retroactive Refunds Available for Goods Imported in 2011

The bill also provides for granting retroactive GSP treatment to goods entered from January 1, 2011 to the effective date of the bill. However, it requires companies seeking liquidation or reliquidation of subject entries to file an application for such

refunds with United States Customs and Border Protection (CBP). These entries are to be accorded GSP treatment as though they were made "on December 31, 2010".

Section 1(b)(2)(B) of the Act sets out the procedure which importers must follow in order to secure retroactive refunds of duties deposited on GSP-eligible goods imported prior to the restoration of GSP status. Customs will not automatically liquidate such entries with GSP treatment. The importer must take the initiative and file an application. The Act provides:

(B) REQUESTS.—A liquidation or reliquidation may be made under subparagraph (A) with respect to an entry only if a request therefor is filed with U.S. Customs and Border Protection not later than 180 days after the date of the enactment of this Act that contains sufficient information to enable U.S. Customs and Border Protection—

(i) to locate the entry; or

(ii) to reconstruct the entry if it cannot be located.

Duty refunds will be paid, **without interest**, within 90 days after liquidation or reliquidation of the entry pursuant to the importer's request.

In the past, Customs has allowed requests to be made using the Post Entry Amendment (PEA) procedure, although letter applications covering multiple entries have also been accepted.

Please note that refunds applications must be made within 180 days after the October 13, 2011 date of enactment by Congress – not within 180 days after the effective date of the bill. Retroactive refund applications will be due no later than approximately **April 10, 2012**.

Status of GSP Review Petitions

The United States Trade Representative (USTR) is by law required to conduct an annual review of the GSP and to specify changes to the program. These may include termination of GSP status for particular articles, or particular goods from individual beneficiary countries (for example, if imports from a beneficiary country have exceeded the “competitive need limitation” for GSP). USTR may also waive the competitive need limitations for certain products.

When GSP expired at the end of 2010, the USTR was considering four (4) petitions for waiver of competitive need limitations (including one for new pneumatic tires from Sri Lanka) and a petition to remove a product (sleeping bags) from GSP. The USTR announced that it would not publish any further notices concerning those proceedings while statutory authority for GSP had lapsed. It is not known whether USTR will proceed to issue decisions on those petitions, or wait until the 2012 GSP review deadlines.

In any event, any decisions on such petitions, or concerning an annual review, would not apply to goods imported on and before the effective date of H.R. 2832. Congress has ordered that subject entries be liquidated or reliquidated free of duty under GSP, as though they had been entered on December 31, 2010. Furthermore, GSP treatment

in accordance with the program’s status on December 31, 2010 will continue until any new announcement or proclamation is made by USTR and the President.

Please contact us if you have any questions or if we can furnish any additional information concerning these matters.

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