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Generalized System of Preferences: Agricultural Imports

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Summary

The Generalized System of Preferences (GSP) provides duty-free tariff treatment for certain products from designated developing countries. Agricultural imports under GSP totaled $2.5 billion in 2012, nearly 13% of the value of all U.S. GSP imports. Leading agricultural imports include processed foods and food processing inputs, sugar and sugar confectionery, cocoa, processed and fresh fruits and vegetables, beverages and drinking waters, olive oil, processed meats, and miscellaneous food preparations and inputs for further processing. The majority of these imports are from Thailand, Brazil, India, Indonesia, and Turkey, which combined account for nearly two-thirds of total agricultural GSP imports.

GSP was most recently extended until July 31, 2013 (P.L. 112-40), but was not renewed before it expired. In the past few years, Congress has extended GSP through a series of short-term extensions. Previously Congress has renewed GSP retroactively, and not prior to expiration.

The expiration of GSP means that renewal of the program may continue to be a legislative issue in the 114th Congress. In recent years, GSP renewal has been somewhat controversial. Some in Congress have continued to call for changes to the program that could limit GSP benefits to certain countries, among other changes. Opinion within the U.S. agriculture industry is mixed, reflecting both support for and opposition to the current program. The 113th Congress introduced but did not enact legislation to renew GSP. Additional background information on such legislation is available in CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate.*

Leaders of the House Ways and Means Committee and the Senate Finance Committee have continued to express an interest in evaluating the effectiveness of U.S. trade preference programs, including GSP, and broader reform of these programs might be possible. Congress made changes to the program in 2006, tightening its requirements on imports under certain circumstances.

In addition, recently some countries have been suspended from or included in GSP. Many in Congress were critical of Russia's status as a GSP beneficiary following its invasion of Crimea in 2014. In May 2014, President Obama notified Congress that he intended to graduate Russia from the program, and later officially terminated Russia's GSP status in October 2014. Also, in June 2013, the President announced the suspension of GSP benefits for Bangladesh, but is currently reviewing this decision.

Previously, in March 2012, President Obama suspended GSP benefits for Argentina. Argentina had been among one of the top two beneficiary countries of agricultural imports under the program, after Thailand, accounting for more than one-tenth of all agricultural imports under GSP (ranked by import value). Under the program, Argentina exported more than $380 million of agricultural products in 2012, including casein, olive oil, prepared meats, gelatin derivatives, cheese and curd, sugar confectionery, wine, and other food products. The President suspended GSP benefits for Argentina because "it has not acted in good faith in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association that is 50 percent or more beneficially owned by United States citizens."

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Background

The U.S. Generalized System of Preferences (GSP) was established by the Trade Act of 1974 (19 U.S.C. 2465; §505) and now provides preferential duty-free entry of up to 5,000 agricultural and non-agricultural products from 126 designated beneficiary countries and territories.[1] Agricultural products under the program totaled $2.5 billion in 2013, accounting for nearly 13% of the total value of annual GSP imports. Duty-free access for agricultural imports under GSP is an important issue for many in the U.S. agriculture industry who either support or oppose the program. However, some in Congress have called for changes to the program that could limit or curtail benefits to certain countries, among other changes.

In recent years, GSP has been reauthorized through a series of one-year extensions. The program was more recently extended until July 31, 2013 (P.L. 112-40, §1). However, it was not renewed before it expired.

GSP Agricultural Imports

In 2012, U.S. imports under GSP totaled $19.9 billion, accounting for roughly 1% of all commodity imports. Leading U.S. imports under the program are manufactured products and parts, chemicals, plastics, minerals, and forestry products. Roughly one-fourth of all GSP imports consist of jewelry, electrical, and transportation equipment, both finished products and parts.[2] (Data are reported for 2012 since this was the last full program year prior to GSP's expiration.)

Agricultural products accounted for nearly 13% of all imports under GSP, totaling $2.5 billion in 2012. Compared to 2000, the value of agricultural imports under the program has nearly tripled. Imports under the program account for about 3% of total U.S. agricultural imports.[3] **Table 1** shows the leading agricultural products (ranked by value) imported into the United States under the program. Leading imports include processed foods and food processing inputs, sugar and sugar confectionery, cocoa, processed and fresh fruits and vegetables, drinking waters, olive oil, processed meats, and miscellaneous food preparations and inputs for further processing.

Most GSP agricultural imports are supplied by beneficiary countries that have been identified for possible graduation from the program. In 2012, five beneficiary countries ranked by import value—Thailand, Brazil, India, Indonesia, and Turkey—accounted for nearly two-thirds of the value of agricultural imports under the GSP program (see **Table 2**). Thailand and Brazil alone accounted for 40% of agricultural imports under the program.

[1] Office of the U.S. Trade Representative (USTR), Generalized System of Preferences, http://www.ustr.gov/Trade_Development/Preference_Programs/GSP/Section_Index.html.

[2] U.S. Chamber of Commerce, *Estimated Impacts of the U.S. Generalized System of Preferences to U.S. Industry and Consumers*, October, 2006.

[3] The value of U.S. agricultural imports totaled $88 billion in 2010 (compiled by CRS using trade data from U.S. International Trade Commission). Imports for consumption, actual U.S. dollars. Agriculture commodities as defined by the WTO Agreement on Agriculture (USDA, *Profiles of Tariffs in Global Agricultural Markets*, AER-796, Appendix, January 2001).

Table 1. U.S. Agricultural Imports under the GSP Program, 2012

HTS Chapter(s) Subsection	Import Categories	2012 ($ millions)	% Share	GSP Share All Ag Imports
19, 21, 13	Processed foods & food processing inputs	554.0	22%	4%
17	Processed fruits & vegetables, inputs	336.3	13%	6%
20, 14	Sugars and sugar confectionery	306.1	12%	10%
18	Cocoa & cocoa-containing products	281.9	11%	7%
22	Beverages, water, spirits, and vinegar	212.8	8%	1%
23, 3501-3505, 3301, 38 (part)	Grain-based products	172.9	7%	6%
1509	Ag-based chemicals, residues, byproducts	135.2	5%	2%
16	Olive oil	123.5	5%	13%
8 (part), 7	Other fresh fruits and vegetables	101.6	4%	1%
8 (part)	Processed meat & fish products	68.7	3%	2%
10, 11	Fresh tropical fruits	65.2	3%	4%
12, 15 (part)	Oilseeds & processed oils/fats	47.3	2%	1%
24	Ag-based organic chemicals (e.g. sorbitol)	34.0	1%	26%
4	Coffee, tea, & spices	25.6	1%	0%
9	Dairy products	23.9	1%	1%
2905 (part)	Plants and cut flowers	14.0	1%	3%
6	Tobacco products	13.9	1%	1%
5, 4301, 41 (part)	Misc. animal products, incl. hides	3.0	<1%	0%
8 (part)	Nuts	1.3	<1%	0%
1, 2	Meat products, incl. live animals	0.2	<1%	0%
50-53 (part)	Ag-based textile inputs (cotton, wool, etc.)	0.2	<1%	0%
	Total	**2,521.6**	**100%**	**3%**

Source: CRS calculations from data from U.S. International Trade Commission, http://dataweb.usitc.gov. Imports for consumption, actual U.S. dollars. Select GSP countries are ranked by value of imports (counties as of end-December 2012, including Argentina). Agriculture commodities as defined by the WTO Agreement on Agriculture. Includes U.S. Harmonized Tariff Schedule chapters 1-24, excluding chapter 3 (fish and fish products, except processed), and parts of chapters 29, 33, 35, 48, 41, 43, and 50-53 (USDA, *Profiles of Tariffs in Global Agricultural Markets*, AER-796, Appendix, January 2001).

About one-fourth of GSP agricultural imports consist of sugar and sugar-based products, and cocoa and cocoa-containing products (**Table 1**). Major GSP suppliers of cane and beet sugar imports were the Philippines, Paraguay, Peru, Panama, and South Africa. Major suppliers of confectionery were Brazil, Argentina, Colombia, the Philippines, South Africa, Thailand, and Turkey. Cocoa and cocoa-containing products were supplied mainly by Brazil, the Côte d'Ivoire, and other African nations. Indonesia, among other countries, is a supplier of imports of sugar alcohols and other agriculture-based organic chemicals, such as sorbitol.

Another nearly 40% of agricultural imports under GSP include food processing inputs, such as miscellaneous processed foods, processed oils and fats, fruit and vegetable preparations, and ag-based chemicals and byproducts. Other product categories and suppliers are as follows. Olive oil accounted for 5% of GSP agricultural imports, supplied by Tunisia, Turkey, and Argentina. Mineral waters and other types of beverages (8%) were supplied by Fiji and Thailand, among others. Imports of fresh fruits and vegetables (7%) include bananas and other tropical produce.

Table 2. U.S. Agricultural Imports under the GSP Program, by Country, 2012

Country of Origin	2012 $ millions	% Share	% Change 2007-2012	Major import product categories
Thailand	618.9	24.5%	72%	food preparations, preserved fruits and vegetables, waters, grain products, sauces and condiments, confectionery
Brazil	384.3	15.2%	60%	fruit juices, gelatin derivatives, sugar confectionery, tropical fruits, miscellaneous food preparations, cocoa products
India	290.5	11.5%	62%	vegetable saps/extracts, gelatin derivatives, preserved cucumbers, essential oils (peppermint), spices
Indonesia	179.4	7.1%	106%	sugar alcohols and organic chemicals, seafood, tobacco products, sugar confectionary, edible animal products
Turkey	150.4	6.0%	12%	sugar confectionary, olive oil, prepared/preserved fruits and vegetables, fruit juices, condiments and spices
Philippines	117.8	4.7%	-13%	cane/beet sugar, fresh/processed fruits and tropical fruits, fish products, coconut oil and coconuts, grains, waters
Argentina	116.1	4.6%	-52%	casein, olive oil, prepared meats, gelatin derivatives, cheese and curd, sugar confectionery, wine
Tunisia	108.0	4.3%	56%	olive oil and olive products, tropical fruits, sugar confectionary, sauces and condiments, spices
Cote d`Ivoire	94.4	3.7%	351%	cocoa and cocoa-containing products
Ecuador	55.9	2.2%	45%	preserved/frozen fruit products, sugar, floriculture/plants, seeds, bulbs, tuber vegetables
Subtotal	**2,115.7**	**83.9%**	**40%**	
Other	**405.8**	**16.1%**	**-27%**	
Total	**2,521.6**	**100.00%**	**739%**	

Source: CRS calculations from data from USITC, http://dataweb.usitc.gov. Imports for consumption, actual U.S. dollars. Includes HTS chapters 1-24, excluding chapter 3 (fish and fish products, except processed), and parts of HTS chapters 29, 33, 35, 48, 41, 43, and 50-53. Select GSP countries ranked in terms of value of imports in 2007 (10-digit HTS level). Agriculture commodities as defined by the WTO Agreement on Agriculture (for information, see USDA, *Profiles of Tariffs in Global Agricultural Markets*, AER-796, Appendix, January 2001).

Legislative and Administrative Changes

GSP was most recently extended until July 31, 2013 (P.L. 112-40, §1), but has not been renewed. Previously Congress has renewed GSP retroactively, but not always prior to expiration.[4] In the past few years, Congress has extended the program through a series of short-term extensions. In

[4] See Table B-1, CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate.*

both 2008 and 2009, GSP was reauthorized through a series of one-year extensions. The 111th Congress did not extend GSP in 2010, and it expired December 31, 2010 (P.L. 111-124).[5] It was later renewed in the 112th Congress (through July 2013), and was retroactively extended to eligible merchandise that entered the United States between the expiration date, December 31, 2010, also the date the GSP renewal entered into force. Therefore, importers of GSP-eligible products were able to seek reimbursement for tariffs paid during the lapse of GSP coverage.

The expiration of GSP means that renewal of the program may continue to be a legislative issue in the 114th Congress. In recent years, GSP renewal has been somewhat controversial. Some in Congress have continued to call for changes to the program that could limit GSP benefits to certain countries, among other changes. The 113th Congress introduced but did not enact legislation to renew GSP. Additional background information on such legislation is available in CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate.*

Leaders of the House Ways and Means Committee and the Senate Finance Committee have continued to express an interest in evaluating the effectiveness of U.S. trade preference programs, including GSP.[6] Both committees have conducted a series of oversight hearings in recent years,[7] focused on determining the effectiveness of U.S. trade preference programs and discussing ways to reform them. Some Members have expressed their reluctance to renew GSP without also enacting meaningful reform legislation.[8] The Government Accountability Office (GAO) has published a series of reports highlighting the perceived benefits and shortcomings of U.S. preference programs, including GSP.[9] Opinion within the U.S. agriculture industry is mixed, reflecting both support for and opposition to the current program.

Amendments to GSP in 2006 followed extensive debate about the program during the 109th Congress. Specifically, some in Congress questioned the inclusion of certain more advanced developing countries (BDCs)[10] as beneficiaries under GSP and also commented that certain BDCs had contributed to the ongoing impasse in multilateral trade talks in the WTO Doha Development Agenda.[11] In response to these concerns, Congress amended the program in 2006 by tightening the rules on "competitive need limits" (CNL)[12] waivers that allow imports from beneficiary

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[5] The African Growth and Opportunity Acceleration Act of 2004 (P.L. 108-274) extended GSP preferences for all beneficiary developing sub-Saharan African countries under the act through September 30, 2015.

[6] For an overview of U.S. trade preference programs, see CRS Report R41429, *Trade Preferences: Economic Issues and Policy Options*.

[7] See, for example, House Ways and Means Subcommittee on Trade, "Hearing on the Operation, Impact, and Future of the U.S. Preference Programs," November 17, 2009; and Finance Committee, "Oversight of Trade Functions: Customs and Other Trade Agencies," June 24, 2008.

[8] See, e.g., remarks of Senator Charles Grassley, Ranking Member of Senate Finance Committee, Washington International Trade Association, June 18, 2009.

[9] See, for example, GAO, "Options for Congressional Consideration to Improve U.S. Trade Preference Programs," GAO-10-262T, November 17, 2009; GAO, "The United States Needs an Integrated Approach to Trade Preference Programs," GAO-08-907T, June 12, 2008; GAO, "U.S. Trade Preference Programs Provide Important Benefits, but a More Integrated Approach Would Better Ensure Programs Meet Shared Goals," GAO-08-443, April 8, 2008; GAO, "An Overview of Use of U.S. Trade Preference Programs by Beneficiaries and U.S. Administrative Reviews," GAO-07-1209, Oct 29, 2007.

[10] A current listing of BDCs under the GSP is available in the U.S. Harmonized Tariff Schedule (General Notes).

[11] See, e.g., U.S. Senate, Committee on Finance, Opening Statement of Senator Charles Grassley, Hearing on the Nomination of Susan C. Schwab to be U.S. Trade Representative, May 16, 2006.

[12] The previous law stipulated a CNL requiring that countries export no more than 50% of total U.S. imports of each product or no more than a specified dollar amount of the imports for a given year. The amended law further tightened (continued...)

countries in excess of GSP statutory thresholds for some products (P.L. 109-432). Historically, there have been few CNL waivers to the GSP for agricultural products and it is unlikely that these program changes will greatly affect U.S. agricultural imports under the program. In 2006, Congress had also renewed the GSP for two years through 2008.

Also, in 2006, the Trade Policy Staff Committee (TPSC), an advisory committee chaired by the U.S. Trade Representative, instituted a series of investigations to evaluate possible changes to the GSP.[13] In its 2006 review TPSC announced that the more than 80 previously granted CNL waivers would be individually evaluated, in addition to the standard practice of examining petitions for new CNL waivers. TPSC said that it would also examine the eligibility status of several "middle income" economies.[14] Among the countries identified for possible removal as beneficiaries under the program were Argentina, Brazil, India, the Philippines, Thailand, and Turkey. These countries account for over 60% of the value of U.S. agricultural products imported duty-free under the program. Although none of the countries cited lost their overall GSP eligibility as a result of these reviews, several previously granted CNL waivers from these countries were revoked. For agricultural imports under GSP, the Côte d'Ivoire lost CNL waivers for fresh or dried, shelled kola nuts (HTS 0802.90.94), as part of the 2006 review. Argentina lost CNL waivers for cooked, shelled, fresh or dried peanuts (HTS 1202.20.40), as part of the 2007 review. These waivers had allowed for these products to be imported from the Ivory Coast and Argentina duty-free under GSP despite the statutory import thresholds. Other countries lost CNL waivers for some non-agricultural products, but not for agricultural products. The 2006 review included decisions on other country and product petitions involving agricultural products, but these changes are unlikely to greatly affect U.S. agricultural imports under GSP.

For more information and for a discussion of possible legislative options, see CRS Report RL33663, *Generalized System of Preferences: Background and Renewal Debate*.

In early 2012, the Obama Administration implemented a number of actions affecting certain countries' eligibility under the GSP program. Included was the suspension of GSP eligibility of Argentina. Argentina is among the program's top beneficiary countries, accounting for more than 10% of all agricultural imports under the GSP (ranked by import value). The President suspended GSP benefits for Argentina because "it has not acted in good faith in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association that is 50 percent or more beneficially owned by United States citizens."[15] Also, in 2012, the Administration

(...continued)

these requirements.

[13] 72 *Federal Register* 35895, June 28, 2007 (2006 Review); and 73 *Federal Register* 38297, June 3, 2008 (2007 Review). Regulations for implementing the GSP are at 15 C.F.R. Part 2007.

[14] Countries may "graduate" or be removed as a beneficiary developing country if the country is determined to be sufficiently competitive or developed (19 U.S.C. 2462(e)). For example, in 2008, the Republic of Trinidad and Tobago graduated from the GSP program when it was determined to have become a ''high income'' country. Also, countries that formally enter into a bilateral trading relationship with another developed country may also become ineligible, as happened in 2007 for Bulgaria and Romania when they joined the European Union.

[15] Proclamation 8788 of March 26, 2012, and 77 *Federal Register* 18899, March 29, 2012. Also see USTR, "U.S. Trade Representative Ron Kirk Comments on Presidential Actions Related to the Generalized System of Preferences," March 26, 2012, press release. In June 2012, the United States terminated GSP beneficiary status of Gibraltar and the Turks and Caicos as they had become "high income" countries. These two countries are not major suppliers of U.S. agricultural imports under the program.

designated the Republic of South Sudan and Senegal as least-developed beneficiary developing countries under GSP.

Recently other countries have been suspended from GSP. In 2014, many in Congress were critical of Russia's status as a GSP beneficiary following its invasion of Crimea. In May 2014, President Obama notified Congress that he intended to graduate Russia from the program,[16] and later he officially terminated Russia's GSP status in October 2014.[17] Under GSP, Russia exported nearly $20 million of agricultural products in 2012, including grain-based products, cocoa preparations, sugar and molasses-based confectionary, tree nuts, and other products. Previously, in June 2013, the Administration had announced the suspension of GSP benefits for Bangladesh, but it is currently reviewing this decision.

The European Union (EU) is implementing additional reforms to its own GSP program.[18] Under the EU's so-called "GSP+" program, preferential access will be provided for certain "vulnerable developing countries" including Armenia, Bolivia, Cape Verde, Costa Rica, Ecuador, Georgia, Mongolia, Paraguay, Pakistan and Peru. Pakistan will enter the scheme for the first time. The program is intended to provide an "incentive to respect core human and labour rights, the environment and good governance principle,"[19] and entered into force January 1, 2014.

Implications of Possible Program Changes

Changes made to GSP in 2006 and later in 2012 have affected the overall distribution and volume of both agricultural and non-agricultural product imports under the program.

The 2012 Administration changes, removing Argentina from the list of GSP countries effective January 2013, reduced the total value of GSP agricultural imports and limiting preferential access for certain products imported from Argentina under the program. Argentina had been among one of the top two beneficiary countries of agricultural imports under GSP, after Thailand, and in earlier years accounted for more than one-tenth of all agricultural imports under GSP (ranked by import value). In recent years imports from Argentina under the program have been much lower. In 2012, Argentina exported $116 million of agricultural products under the program, accounting for nearly 5% of the total value of GSP agricultural imports. Products imported from Argentina under GSP included casein, olive oil, prepared meats, gelatin derivatives, cheese and curd, sugar confectionery, wine, and other food products (**Table 2**).

The 2006 statutory changes to GSP tightening rules for CNL waivers likely did not greatly affect U.S. agricultural imports under the program. Historically, there have been few CNL waivers for agricultural products imported duty-free under GSP. Current waivers include sugar and preserved

[16] U.S. Congress, House Committee on Ways and Means, *Withdrawal of Russia as a Beneficiary Developing Country under the Generalized System of Preferences*, Executive Communication from Obama, Barack H., 113th Cong., May 7, 2014, H.Doc.113-107.

[17] 79 *Federal Register* 60945, October 8, 2014, Presidential Proclamation 9188. The President's withdrawal of the preference was based on Section 502(f)(2) of the Trade Act of 1974 (19 U.S.C. 2462(f)(2)), which states that one of the factors determining country eligibility is its level of economic development.

[18] European Commission memo, "Revised EU trade scheme to help developing countries applies on 1 January 2014," December 19, 2013, http://trade.ec.europa.eu/doclib/docs/2013/december/tradoc_152015.pdf.

[19] European Commission memo, "10 countries to benefit from EU preferential trade scheme GSP+ as of 1 January 2014," December 30, 2013, http://trade.ec.europa.eu/doclib/press/index.cfm?id=1006.

bananas (Philippines), sugar, carnations, figs, yams, and gelatin derivatives (Colombia), certain nuts (Argentina), animal hides (Argentina, South Africa, and Thailand), and caviar (Russia). Other types of program changes, however, could affect U.S. agricultural imports under the program, including additional limits on CNL waivers from certain countries or graduation of some beneficiary countries. Countries that account for the majority of U.S. agricultural imports under GSP are Thailand, Brazil, Argentina, India, and Turkey.

Comments submitted to USTR as part of its 2006 review from U.S. agricultural industry groups are mixed.[20] For example, the American Farm Bureau Federation (AFBF) expressed its general opposition to the GSP program, stating that products imported duty-free under the program compete with U.S.-produced goods without granting a commensurate level of opportunity for U.S. producers in foreign markets. AFBF further supported withdrawal of CNL waivers for the Philippines, Argentina, and Colombia. The Grocery Manufacturers Association (GMA) expressed support for the current GSP program and identified certain agricultural products of importance to GMA under the program, including sugar confections, spices, and certain processed foods and inputs from Brazil, India, and Argentina. GMA's position was generally supported by comments from the American Spice Trade Association, the National Confectioners Association, and the Chocolate Manufacturers Association. GMA has previously supported congressional efforts to extend GSP.[21]

What remains unclear is whether duty-free access for most agricultural imports under the GSP greatly influences a country's willingness to export these products to the United States. In most cases, costs associated with import tariffs are borne by the importer. These costs may be passed on to the BDCs in terms of lower import prices. However, import tariffs to the United States for most of these products tend to be low. As calculated by CRS, *ad valorem* equivalent tariffs range from 3% to 4% for sugar, 2% to 10% for cocoa-containing products, 5% to 12% for confectionery, 1% to 2% for most processed meats, about 2% for olive oil, less than 1% for mineral water, and about 5% for agriculture-based organic chemicals.[22] In general, any additional costs that might be incurred by the BDCs as a result of the proposed changes could be more than offset by the generally higher U.S. prices for most products compared to prices in other world markets. Nevertheless, the imposition of even relatively low import tariffs could represent an increase in input costs to some U.S. food processors and industrial users. These costs could be passed on to consumers through higher prices for these and other finished agricultural or manufactured products. As shown in **Table 1**, about one-half of GSP agricultural imports are intermediate goods and inputs, such as raw sugar, miscellaneous processed foods, preparations, and byproducts, and agriculture-based organic chemicals.

[20] Based on public comments to the 2006 TPSC recommendations, posted at USTR's website.

[21] See, for example, the letter to Representatives Sander Levin and Dave Camp, and Senators Max Baucus and Charles Grassley, from several U.S. companies and manufacturing associations, including GMA, November 10, 2010.

[22] Calculated tariffs based on the in-quota rate. Under the GSP, agricultural products subject to a TRQ exceeding the in-quota quantity is ineligible for duty-free import (19 U.S.C. 2463(b)(3)).

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