United States International Trade Commission

Advice Concerning Possible Modifications to the U.S. Generalized Systems of Preferences With Respect to Certain Products Imported From AGOA Countries

Note.--This report is a declassified version of the confidential probable economic effect advice report submitted to the President on April 25, 2002

Investigation No. 332-437
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U.S. International Trade Commission

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Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences With Respect to Certain Products Imported From AGOA Countries

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Investigation No. 332-437

Publication 3503 **April 2002**

NOTICE

THIS REPORT IS A DECLASSIFIED VERSION OF THE CONFIDENTIAL PROBABLE ECONOMIC EFFECTS ADVICE REPORT SUBMITTED TO THE PRESIDENT ON APRIL 25, 2002. ALL CLASSIFIED PROBABLE ECONOMIC EFFECTS ADVICE HAS BEEN REMOVED AND ALL BUSINESS PROPRIETARY INFORMATION HAS BEEN REPLACED WITH "*."**

CONTENTS

INTRODUCTION[1]

On January 17, 2002, the United States International Trade Commission (Commission) received a request from the United States Trade Representative (USTR) for an investigation under section 332(g) of the Tariff Act of 1930 for the purpose of providing advice concerning possible modifications to the U.S. Generalized System of Preferences (GSP). The USTR request letter is included in appendix A. Following receipt of the request and in accordance therewith, the Commission instituted investigation No. 332-437 to provide as follows:

(1) With respect to unwrought manganese flake as described by the USTR in its notice published in the Federal Register of January 24, 2002 (67 F.R. 3530), advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of United States import duties only for countries designated as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA) in general note 16 of the Harmonized Tariff Schedule of the United States (HTS). The USTR requested that the Commission, in providing its advice, assume that the benefits of the GSP would continue to apply to imports that would be normally excluded from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the Trade Act of 1974 (1974 Act) (19 U.S.C. 2463(c)(2)(A)). The USTR noted that an exemption from the application of the competitive need limits for the beneficiary AGOA countries is provided for in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D); and

(2) With respect to prepared or preserved pears as described in HTS subheading 2008.40.00, advice as to the probable economic effect on United States industries producing like or directly competitive articles and on consumers of the removal of the article from eligibility for duty-free treatment under the GSP. The USTR noted that the article is currently eligible for GSP only for countries designated as beneficiary AGOA countries in general note 16 of the HTS.

The Commission instituted the investigation on January 29, 2002, and indicated that it would seek to provide its advice no later than April 25, 2002, as requested by USTR. The Commission's notice of investigation is contained in appendix B.

All interested parties have been afforded an opportunity to provide the Commission with written comments and information. In addition, the Commission held a public hearing on the investigation in Washington, DC, on March 6, 2002. The list of witnesses appearing before the Commission is contained in appendix C.

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[1]The following *Federal Register* notices were issued by the USTR and the Commission relating to investigation No. 332-437:

Date	Notice	Subject
Jan. 24, 2002	67 F.R. 3528	USTR Notice of GSP review
Feb. 5, 2002	67 F.R. 5290	Notice of USITC investigation

PRESENTATION OF ADVICE

The Commission has provided its advice in the form of commodity digests, as it has in prior GSP investigations. Each digest analyzes the effect of tariff modifications on a single HTS subheading and provides advice in terms of the traditional coding scheme noted later in this section.

This report contains two digests covering two HTS subheadings, with each digest containing the following sections:

I. Introduction
This section provides basic information on the item, including description and uses, rate of duty, and an indication of whether there was a like or directly competitive article produced in the United States on January 1, 1995.

II. U.S. market profile
This section provides information on U.S. producers, employment, shipments, exports, imports, consumption, import market share, and capacity utilization. When exact information is not obtainable, estimates based on the following coding system are provided:

* = Based on partial information/data adequate for estimation with a moderately high degree of confidence, or

** = Based on limited information/data adequate for estimation with a moderate degree of confidence.

III. GSP import situation, 2001
This section provides 2001 U.S. import data, including world total and certain GSP-country specific data.

IV. Competitiveness profiles, GSP suppliers
This section provides background information on GSP-eligible countries for the digest, their ranking as an import source, the price elasticities of supply and demand for imports from that country and the price and quality of the imports versus U.S. and other foreign products.[2]

[2] Price elasticity is a measure of the percentage changes in quantities supplied or demanded that result from a percentage change in price. Generally, price elasticities of supply are positive and price elasticities of demand are negative. There are a number of guidelines based on the absolute elasticity value when characterizing elasticities. The elasticity is low when its absolute value is less than 1.0 because the change in quantity demanded or supplied is less than proportional to the change in price. The elasticity is moderate when its absolute value is between 1 and 2, with the percentage change in quantity being one to two times greater than the percentage change in price. The elasticity is high when its absolute value exceeds 2.0, as the percentage change in quantity exceeds the percentage change in price by more than two times. It should be noted that the elasticity levels (low, moderate, and high) are estimates based on staff analysis of the relevant industry.

V. Position of interested parties
This section provides a brief summary of the petition as well as summaries of hearing testimony and written submissions from interested parties.

VI. Summary of probable economic effects advice
This section provides advice on the short-to-near-term (1 to 5 years) impact of the proposed GSP-eligibility modifications in three areas: (1) U.S. imports, (2) U.S. industries producing like or directly competitive articles, and (3) U.S. consumers. The probable economic effects advice, to a degree, integrates and summarizes the data provided in sections I-V of the digests with particular emphasis on the price sensitivity of import supply and demand.

Probable economic effects were estimated using a partial equilibrium model that has been used in prior Commission studies.[3] See appendix D for a description of the model.

The probable economic effect advice with respect to changes in import levels is presented in terms of the degree to which GSP modifications could affect the level of U.S. trade with the world. Consequently, if GSP beneficiaries supply a very small share of the total U.S. imports of a particular product or if imports from beneficiaries readily substitute for imports from other countries, the overall effect on U.S. imports could be minimal.

The digests contain a coded summary of the probable economic effects advice. The coding scheme is as follows:

<u>FOR "REMOVAL" DIGEST</u>:

Level of total U.S. imports.
- Code X: Little or no decrease (0 to 5 percent).
- Code Y: Moderate decrease (6 to 15 percent).
- Code Z: Significant decrease (more than 15 percent).

U.S. industry and employment:
- Code X: Little or negligible beneficial impact.
- Code Y: Significant beneficial impact (significant number of additional workers employed; increases in output; increases in profit levels; new firms; but beneficial impact not industry-wide).
- Code Z: Substantial beneficial impact (substantial increase in employment; widespread increased production; substantial increases in profits levels; beneficial impact on the industry as a whole).
- Code N: None.

U.S. consumer:
- Code X: The bulk of the duty increase (more than 75 percent) is expected to be absorbed by the foreign suppliers.

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[3] See, for example, U.S. International Trade Commission, *U.S.-Korea FTA: The Economic Impact of Establishing a Free Trade Agreement (FTA) Between the United States and the Republic of Korea* (investigation No. 332-425), USITC Publication 3452, Sept. 2001.

Code Y: The duty increase is expected to increase costs to both the foreign suppliers and the U.S. consumer (neither absorbing more than 75 percent of the costs).
Code Z: The bulk of the duty increase (more than 75 percent) is expected to be passed on to the U.S. consumer.
Code N: None.

FOR "ADDITION" DIGEST:

Level of total U.S. imports:
Code A: Little or no increase (0 to 5 percent).
Code B: Moderate increase (6 to 15 percent).
Code C: Significant increase (more than 15 percent).
Code N: No impact.

U.S. industry and employment:
Code A: Little or negligible adverse impact.
Code B: Significant adverse impact (significant proportion of workers unemployed, declines in output and profit levels, and departure of firms; effects on some segments of the industry may be substantial even though they are not industry wide).
Code C: Substantial adverse impact (substantial unemployment, widespread idling of productive facilities, substantial declines in profit levels; effects felt by the entire industry).
Code N: None.

U.S. consumer:
Code A: The bulk of duty saving (more than 75 percent) is expected to be absorbed by the foreign suppliers. The price U.S. consumers pay is not expected to fall significantly.
Code B: Duty saving is expected to benefit both the foreign suppliers and the domestic consumer (neither absorbing more than 75 percent of the costs).
Code C: The bulk of duty saving (more than 75 percent) is expected to benefit the U.S. consumer.
Code N: None.

The probable economic effect advice for U.S. imports and the domestic industry is based on estimates of what is expected in the future with the proposed change in GSP eligibility compared with what is expected without it. That is, the estimated effects are independent of and in addition to any changes that may otherwise occur. Although other factors, such as exchange rate changes, relative inflation rates, and relative rates of economic growth, could have a significant effect on imports, these other factors are not within the scope of the USTR request.

DIGEST LOCATOR

Report digests are listed by proposed action and in sequential order by HTS subheading. This listing provides the following information on the individual digests: a digest title, the proposed action, petitioner, probable economic effects advice (to be presented in the final report), column 1 rate of duty, existence of U.S. production on January 1, 1995, and the name of the International Trade Analyst assigned.

HTS subheadings requiring probable economic effects advice and listing of digest

HTS subheadings	Short title	Proposed action	Petitioners	Probable economic effects advice	Col. 1 rate of duty, Jan. 1, 2002	U.S. production of like or directly competitive articles, Jan. 1, 1995	Analyst
2008.40.00	Prepared or preserved pears	Removal	Northwest Horticultural Council, Yakima WA; Pacific Northwest Canned Pear Service, Yakima, WA; California Pear Advisory Board, Sacramento, CA; Washington-Oregon Canning Pear Association, Yakima, WA; Pacific Coast Producers, Lodi, CA; Signature Fruit Company, LLC, San Roman, CA.	***	15.3%	Yes	Newman
8111.00.45 (pt.)	Certain unwrought manganese	Addition	Eramet Marietta, Inc., Marietta, OH; Manganese Metal Company (Pty) Ltd., South Africa	***	14.0%	Yes	Taylor

COMMODITY DIGESTS

DIGEST NO. 2008.40.00

Prepared or preserved pears

Prepared or preserved pears[1]

I. Introduction

_X_ Removal from GSP: AGOA

HTS subheading	Short description	Col. 1 rate of duty (1/1/02)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
		Percent ad valorem	
2008.40.00	Prepared or preserved pears	15.3	Yes

Description and uses.–This digest covers certain prepared or preserved pears. By far, the principal product form is canned pears. Other product forms include pears packed in plastic containers and pear pulp. Virtually all U.S. production of canned pears is of the Bartlett variety, while imported canned pears are of various varieties, generally similar to Bartlett. Canned pears are packed in a liquid medium, usually water and a preservative/sweetener such as fruit juice or syrup. There are various pack styles for canned pears, including whole, halves, quarters, slices, diced, and pieces. There is also a variety of can sizes, generally divided into retail (smaller) and institutional (larger) categories. In addition, voluntary U.S. grade standards differentiate quality levels for U.S. canned pear production.[2] Canned pears are used mainly as a dessert item or as an ingredient in dishes and salads.[3]

II. U.S. market profile

Profile of U.S. industry and market, 1997-2001

Item	1997	1998	1999	2000	2001
Producers (***number***)	7	7	7	7	7
Employment (***1,000 employees***)[1]	(2)	(2)	(2)	(2)	4.7
Shipments (***1,000 dollars***)[3]	**100,000	**100,000	**100,000	**100,000	**100,000
Exports (***1,000 dollars***)	3,982	4,961	4,353	4,261	5,282
Imports (***1,000 dollars***)	18,174	4,017	1,886	1,054	5,714
Consumption (***1,000 dollars***)[3]	**114,192	**99,056	**97,533	**96,793	**100,432
Import-to-consumption ratio (***percent***)[3]	**16	**4	**2	**1	**6
Capacity utilization (***percent***)	(2)	(2)	(2)	(2)	(2)

[1] Includes canning sector employment only. Employees are involved in the production of other products. A substantial number of additional employees are involved in growing fresh pears and in other activities related to producing prepared or preserved pears.
[2] Not available.
[3] Estimated by the U.S. International Trade Commission.

Source: Producers, employment, and shipments from U.S. industry sources; all other data compiled or calculated from official statistics of the U.S. Department of Commerce, except as noted.

[1] This digest includes HTS subheading 2008.40.00.
[2] U.S. Department of Agriculture, Agricultural Marketing Service, *United States Standards for Grades of Canned Pears*, available at Internet address *http://www.ams.usda.gov/standards/frutcan.htm*, retrieved Feb. 5, 2002.
[3] For examples of uses for canned pears, see Internet address *http://www.pnw-cannedpears.com/famsize.html*.

Comment.–In 2001, the U.S. prepared or preserved pear industry comprised 7 pear canners employing 4,700 workers.[4] Production facilities are located in the States of Washington, Oregon, and California. In addition, the industry supports approximately 1,600 fresh pear growers and 6,700 grower-related jobs in those States. Approximately 70 percent of annual U.S. production of Bartlett pears is processed, mostly in canned form. The canned pear market comprises the institutional and retail sectors; the former accounts for approximately 65-70 percent of total annual sales.[5] U.S. pear canners also produce other canned fruit, including peaches, apricots, and fruit mixtures (cocktail).[6] U.S. growers of pears for canning also market a substantial share of their output, typically about 30 percent, in the fresh market.[7]

U.S. production of canned pears totaled approximately $100 million in 2001. This level was relatively steady during 1997-2001, as the U.S. canned pear market is mature and demand has been stagnant in recent years.[8] U.S. imports of canned pears declined substantially between 1997-2000 before rebounding in 2001.[9] U.S. consumption of canned pears ranged between $97 million and $114 million during 1997-2001, with imports accounting for about 6 percent of consumption in 2001. Shifts in domestic and import supply sources largely are determined by factors such as weather conditions and inventory carryover[10] in the various producing countries.

Competition between domestic and imported canned pears occurs mainly in the institutional market sector, where price is the primary competitive factor. Imports from South Africa, the only AGOA supplier, are virtually identical to domestic product in terms of quality and generally are lower in price compared with U.S. and other foreign sources. Competition between domestic and South African products is greater in East Coast markets, as all domestic production occurs in the Pacific Coast States and transportation costs to the East Coast are substantial. Competition between domestic and South African products has increased since South Africa received duty-free GSP treatment under the AGOA on January 1, 2001.[11]

The U.S. canned pear industry has experienced economic duress in recent years. Bartlett pear growers have faced declining gross returns since 1998, mainly because of domestic oversupply, and such returns are now below production costs.[12] These declines contributed to a 6-percent decline in acreage during 1997-2001.[13] Losses were reported by U.S. pear canners during 1998-2000, with additional losses

[4] Industry data are not available for other product forms. It is believed that production and employment levels for other product forms are relatively minor compared with canned pears. The Northwest Horticultural Council, Pacific Northwest Canned Pear Service, the California Pear Advisory Board, Washington-Oregon Canning Pear Association, Pacific Coast Producers, and Signature Fruit Company, prehearing brief, Feb. 21, 2002, p. 2.

[5] Petition of the Northwest Horticultural Council, Pacific Northwest Canned Pear Service, the California Pear Advisory Board, Washington-Oregon Canning Pear Association, Pacific Coast Producers, Signature Fruit Company, and Canned Pear Processors in Oregon and Washington State before the Office of the United States Trade Representative, Trade Policy Staff Committee, GSP Subcommittee, Dec. 3, 2001, p. 15.

[6] The Northwest Horticultural Council, Pacific Northwest Canned Pear Service, the California Pear Advisory Board, Washington-Oregon Canning Pear Association, Pacific Coast Producers, and Signature Fruit Company, prehearing brief, Feb. 21, 2002, p. 2.

[7] Mark Powers, Vice President, Northwest Horticultural Council, transcript of the public hearing, p. 32.

[8] Ibid., p. 24.

[9] Imports were unusually high in 1997 because of reduced domestic supplies resulting from a poor pear harvest the previous year. Mark Powers, transcript of the public hearing, p. 34.

[10] Wynand du Plessis, Director, South African Fruit and Vegetable Canners' Association, transcript of the public hearing, p. 65.

[11] Mark Powers, transcript of the public hearing, pp. 39-41.

[12] Petition of the Northwest Horticultural Council, Pacific Northwest Canned Pear Service, the California Pear Advisory Board, Washington-Oregon Canning Pear Association, Pacific Coast Producers, Signature Fruit Company, and Canned Pear Processors in Oregon and Washington State before the Office of the United States Trade Representative, Trade Policy Staff Committee, GSP Subcommittee, Dec. 3, 2001, p. 15.

[13] NASS, U.S. Department of Agriculture, *Noncitrus Fruits and Nuts Preliminary Summary*, various years, found at internet address *http://usda.mannlib.cornell.edu/reports/nassr/fruit/pnf-bb/,* retrieved Feb. 8, 2001.

expected for 2001.[14] The largest U.S. pear canner, Tri Valley Growers, went bankrupt in 2000. In April 2001, Signature Fruit acquired the assests of Tri Valley and operated at reduced levels.[15]

III. AGOA GSP import situation, 2001

U.S. imports and share of U.S. consumption, 2001

Item	Imports	Percent of total imports	Percent of GSP imports	Percent of U.S. consumption
	1,000 dollars			
Grand total	5,714	100	([1])	6
Imports from AGOA GSP countries:				
Total	2,658	47	100	3
South Africa	2,658	47	100	3

[1] Not applicable.

Note.—Because of rounding, figures may not add to the totals shown.

Comment.–U.S. imports of canned pears from AGOA GSP sources totaled $2.7 million in 2001. This represented about 47 percent of total U.S. imports and approximately 3 percent of U.S. consumption that year. South Africa was the sole AGOA GSP supplier, as it is the only AGOA producer of canned pears.[16]

[14] Petition of the Northwest Horticultural Council, p. 6.

[15] Most U.S. processors produced a variety of fruit and vegetable products, such as canned peaches, apricots, mixtures, and tomato products.

[16] Wynand du Plessis, Director, South African Fruit and Vegetable Canners' Association, transcript of the public hearing, p. 57.

IV. Competitiveness profiles, AGOA GSP suppliers

Competitiveness indicators for South Africa for all digest products

Ranking as a U.S. import supplier, 2001	1		
Aggregate demand elasticity (price elasticity of U.S. demand for the product from all sources, foreign and domestic):			
Is the product a finished product for final sale to consumers?	Yes X	No __	
Is the product an intermediate good used as an input in the production of another good?	Yes __	No X	
Is the product an agricultural or food product?	Yes X	No __	
What is the aggregate price elasticity of U.S. demand?	High __	Moderate X	Low __
Substitution elasticity:			
What is the similarity of product characteristics (such as quality, physical specifications, shelf-life, etc.) between imports from this supplier and:			
Imports from other suppliers?	High X	Moderate __	Low __
U.S. producers?	High X	Moderate __	Low __
What is the similarity of conditions of sale and distribution (such as lead times between order and delivery dates, payment terms, product service, minimum order size, variations in availability, etc.) between imports from this supplier and:			
Imports from other suppliers?	High __	Moderate X	Low __
U.S. producers?	High __	Moderate X	Low __
What is the substitution elasticity?	High X	Moderate __	Low __
Supply elasticity for affected imports:			
Can production in the country be easily expanded or contracted in the short term?	Yes X	No __	
Does the country have significant export markets besides the United States?	Yes X	No __	
Could exports from the country be readily redistributed among its foreign export markets?	Yes X	No __	
What is the price elasticity of supply for affected imports?	High X	Moderate __	Low __
Price level compared with--			
U.S. products	Above __	Equivalent __	Below X
Other foreign products	Above __	Equivalent __	Below X
Quality compared with--			
U.S. products	Above __	Equivalent X	Below __
Other foreign products	Above __	Equivalent X	Below __

Comment.–South Africa is the fifth leading world producer of canned pears, with annual production levels at about one-tenth of those in the United States. South Africa, the only AGOA supplier, was the leading supplier of U.S. imports of prepared or preserved pears in 2000 and 2001, following several years as the second leading supplier behind Australia. The share of total U.S. imports held by South Africa more than doubled in 2000 compared with the previous year and increased slightly in 2001 to about one-half. This increase resulted mainly from weather conditions affecting South African production and from South African efforts to diversify export markets. South Africa exports the bulk of its production, mainly to the European Union (EU). South Africa could increase its exports to the United States by increasing production and/or diverting exports from other markets.[17] A recent free trade agreement with the EU provided only limited improved access for South African exports of prepared or preserved pears.[18]

[17] Representatives of the South African canned pear industry stated that South African production could not increase by more than 10 percent owing to natural resource and plant capacity limitations. Wynard du Plessis, transcript of the public hearing, pp. 49-50.

[18] Wynard du Plessis, transcript of the public hearing, p. 59.

The quality of South African products is comparable to that of domestic and other imported products, as are other factors, such as terms and conditions of sales.[19] However, U.S. producers generally hold an advantage in terms of proximity to domestic markets, lead times, availability of supplies, and long-term relationships.

V. Position of interested parties

Petitioner.–The petitioners represent domestic producers of fresh pears for processing and prepared or preserved pears, mainly in canned form. The petitioners seek the removal of prepared or preserved pears from GSP eligibility, citing current economic difficulties in their industries, import sensitivity of the products, the competitiveness of South Africa, and the negative effects of imports on industry self-help measures. Petitioners claim that although imports from South Africa comprise a relatively small share of the market, they exert a disproportionate influence on market prices.[20] [21]

Opposition.–The South African Fruit and Vegetable Canners' Association opposes the removal of prepared or preserved pears from AGOA GSP treatment. The Association argues that South Africa's capacity to expand production and exports is limited and that South African exports will not shift from other markets as a result of AGOA GSP treatment. The Association also states that the duration of AGOA GSP benefits, which is 8 years, does not justify the risk of expanding production capacity and that new plantings of pear trees would take 6 years to bear fruit. The Association asserts that returns to South African exporters in the U.S. market are lower than those in other export markets. The Association claims that South Africa does not set prices for prepared or preserved pears in the U.S. market owing to a relatively small market share. The Association also maintains that recent rises in U.S. imports from South Africa resulted from U.S. supply shortages rather than AGOA GSP duty savings and that U.S. imports rose from other major suppliers as well as from South Africa.[22]

[19] Northwest Horticultural Council et al., prehearing brief, pp. 7-8.
[20] Peition of the Northwest Horticultural Council et a.
[21] Northwest Horticultural Council et al., prehearing brief, pp. 4-5.
[22] South African Fruit and Vegetable Canners' Association (Pty) Ltd., posthearing brief.

VI. Summary of probable economic effects advice-Removal (AGOA)

*   *   *   *   *   *   *

Table 1
Prepared or preserved pears (HTS Subheading 2008.40.00): U.S. imports for consumption, by principal sources, 1997-2001

Source	1997	1998	1999	2000	2001
	Value (*1,000 dollars*)				
South Africa	3,924	967	331	483	2,658
Spain	3,073	315	77	101	1,458
Australia	7,435	2,295	1,190	213	824
China	263	157	216	122	389
Canada	0	0	0	0	214
Thailand	0	0	0	0	76
France	19	39	11	13	58
Argentina	0	0	0	0	34
Italy	107	7	12	43	3
Austria	0	12	0	0	0
All other	3,353	225	50	78	0
Total	**18,174**	**4,017**	**1,886**	**1,054**	**5,714**
Total, AGOA GSP sources	**3,924**	**967**	**331**	**483**	**2,658**
	Share of total *(percent)*				
South Africa	21.6	24.1	17.5	45.8	46.5
Spain	16.9	7.8	4.1	9.6	25.5
Australia	40.9	57.1	63.1	20.2	14.4
China	1.4	3.9	11.5	11.6	6.8
Canada	0.0	0.0	0.0	0.0	3.7
Thailand	0.0	0.0	0.0	0.0	1.3
France	0.1	1.0	0.6	1.3	1.0
Argentina	0.0	0.0	0.0	0.0	0.6
Italy	0.6	0.2	0.6	4.1	0.1
Austria	0.0	0.3	0.0	0.0	0.0
All other	18.4	5.6	2.6	7.4	0.0
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Total, AGOA GSP sources	**21.6**	**24.1**	**17.6**	**45.8**	**46.5**

Note.—Because of rounding, figures may not add to totals shown. Values are on a customs value basis.

Source: Compiled from official statistics of the U.S. Department of Commerce.

Table 2
Prepared or preserved pears (Schedule B Number 2008.40.00): U.S. exports of domestic merchandise, by principal markets, 1997-2001

Market	1997	1998	1999	2000	2001
	Value (*1,000 dollars*)				
Canada	3,048	3,363	3,329	2,843	2,400
Thailand	21	14	13	361	1,053
Philippines	0	3	0	163	828
Israel	0	6	3	0	209
Japan	171	667	251	456	168
Russia	20	0	0	0	144
United Kingdom	178	0	0	13	100
Mexico	27	0	24	0	96
Taiwan	24	102	6	13	74
Hong Kong	17	44	56	71	53
All other	475	763	670	341	157
Total	**3,982**	**4,961**	**4,353**	**4,261**	**5,282**
	Share of total *(percent)*				
Canada	76.5	67.8	76.5	66.7	45.4
Thailand	0.5	0.3	0.3	8.5	19.9
Philippines	0.0	0.1	0.0	3.8	15.7
Israel	0.0	0.1	0.1	0.0	4.0
Japan	4.3	13.4	5.8	10.7	3.2
Russia	0.5	0.0	0.0	0.0	2.7
United Kingdom	4.5	0.0	0.0	0.3	1.9
Mexico	0.7	0.0	0.6	0.0	1.8
Taiwan	0.6	2.1	0.1	0.3	1.4
Hong Kong	0.4	0.9	1.3	1.7	1.0
All other	11.9	15.4	15.4	8.0	3.0
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**

Note.—Because of rounding, figures may not add to totals shown. Values are on an FAS value basis.

Source: Compiled from official statistics of the U.S. Department of Commerce.

DIGEST NO. 8111.00.45

Certain unwrought manganese

Certain unwrought manganese[1]

I. Introduction

X Addition to GSP: AGOA

HTS subheading	Short description	Col. 1 rate of duty (1/1/02)	Like or directly competitive article produced in the United States on Jan. 1, 1995?
		Percent ad valorem	
8111.00.45 (pt.)	Certain unwrought manganese	14.0	Yes

Description and uses.–This digest covers certain unwrought manganese, a brittle and unworkable metal in its pure form. The prevalent product form by far in this category is electrolytic manganese in flakes or as powder. Its most common use is as an alloying element in aluminum and steel production. Manganese increases the hardness of aluminum and is added to aluminum production process in the form of manganese-aluminum briquettes. These briquettes are about 80 percent manganese. In steel production, manganese is added to increase the steel's hardness and toughness, and to ameliorate the effects of undesirable elements such as oxygen and sulfur. Only small amounts of manganese are added in aluminum and steel production.

II. U.S. market profile

Profile of U.S. industry and market, 1997-2001

Item	1997	1998	1999	2000	2001
Producers (***number***)	2	2	2	[1]2	[2]1
Employment ***(number)***	([3])	([3])	([3])	([3])	([3])
Shipments (***1,000 dollars***)[4]	23,549	18,312	22,409	19,680	12,949
Sales from government stockpiles ***(1,000 dollars)***[5]	2,471	3,220	1,703	258	1,920
Exports (***1,000 dollars***)[6]	-	-	-	-	-
Imports (***1,000 dollars***)[7]	20,753	21,127	17,978	18,277	22,169
Consumption (***1,000 dollars***)[8]	46,773	42,659	42,090	38,215	37,037
Year-end inventories, producers and consumers ***(1,000 dollars)***[8]	7,619	11,175	10,519	10,053	9,259
Import-to-consumption ratio (***percent***)	48.3	53.9	47.7	57.8	72.4
Capacity utilization (***percent***)	([3])	([3])	([3])	([3])	([3])

[1] One producer, Eramet Marietta, Inc. ceased production of manganese metal flake in October 2000.
[2] The remaining producer, Kerr-McGee Chemical LLC, ceased production of manganese metal flake in April 2001.
[3] Data not available.
[4] Shipment values were derived by subtracting the value of stockpile sales and imports from consumption values. Shipment values include product internally consumed by firms.
[5] Data are presented on a fiscal year basis.
[6] The HTS exports category which includes manganese metal flake also includes manganese aluminum, certain other manganese alloys, waste and scrap. Staff believes that exports of manganese metal flake are very small so exports of manganese metal are not shown.
[7] The HTS import category that includes manganese metal in flake form also includes other forms of manganese metal such as powdered manganese metal. Only China and South Africa export the metal in flake form so only imports from these countries are included.
[8] Values were calculated by multiplying the quantity reported by the U.S. Geological Survey by the annual average North American transaction price reported by Ryan's Notes (a metals trade periodical). Data for 2001 are based on staff estimates.

Source: Government stockpile sales from the Defense National Stockpile Center, all other data compiled or calculated from official statistics of the U.S. Department of Commerce, except as noted.

[1] This digest includes HTS subheading 8111.00.45 (pt.).

Comment.–There were two U.S. companies that produced manganese metal flake in the United States: Eramet Marietta, Inc. (formerly Elkem Metals) and Kerr-McGee Chemical LLC. Eramet Marietta, Inc. ceased production of manganese metal flake in October 2000 and the remaining producer, Kerr-McGee Chemical LLC, ceased production of manganese metal flake in April 2001.

There is now no domestic production of manganese metal flake. Current sources of manganese metal flake are either from imports or the Defense National Stockpile Center (DNSC). The Stockpile Center is run by the U.S. government and operates as a commodity broker of strategic and critical materials for the U.S. Government, primarily to meet national security requirements. The Stockpile sold small amounts of electrolytic manganese metal flake during 1997-2001. It is authorized to sell about 1,728 tons during fiscal year 2002. Eramet purchased most of the metal the DNSC made available for fiscal year 2002 (about 1,100 tons) in December 2001.

The most common end use of manganese metal flake, accounting for approximately 73 percent of U.S. manganese metal consumption, was in production of aluminum alloys. The second most common end use was as an alloying element in steel production accounting for about 14 percent of consumption.[2] A substantial amount of the manganese production of both former U.S. producers was captively consumed to produce manganese-aluminum briquettes. Eramet continues to produce manganese-aluminum briquettes using manganese from imports and the Stockpile Center.

III. AGOA GSP import situation, 2001

U.S. imports and share of U.S. consumption, 2001

Item	Imports	Percent of total imports	Percent of GSP imports	Percent of U.S. consumption
	1,000 dollars			
Grand total	26,808	100	([1])	72
Imports from AGOA GSP countries:				
Total	17,766	80	100	48
South Africa	17,766	80	100	48

[1] Not applicable.

Note.—Because of rounding, figures may not add to the totals shown.

Comment.–South Africa is the largest exporter of manganese metal flake to the United States and the only AGOA country exporting manganese metal flake to the United States. China is the second largest exporter.

[2] *Minerals Yearbook*, U.S. Geological Survey, 2000. At the hearing, Steve Houser, Business Manager at Eramet, testified that 60 to 65 percent of manganese flake is consumed by the aluminum industry with 25 to 30 percent by the steel industry (Hearing transcript, p. 76).

IV. Competitiveness profiles, AGOA GSP suppliers

Competitiveness indicators for South Africa for all digest products

Ranking as a U.S. import supplier, 2001	1		
Aggregate demand elasticity (price elasticity of U.S. demand for the product from all sources, foreign and domestic):			
Is the product a finished product for final sale to consumers?		Yes ___	No X
Is the product an intermediate good used as an input in the production of another good?		Yes X	No ___
Is the product an agricultural or food product?		Yes ___	No X
What is the aggregate price elasticity of U.S. demand?	High ___	Moderate ___	Low X
Substitution elasticity:			
What is the similarity of product characteristics (such as quality, physical specifications, shelf-life, etc.) between imports from this supplier and:			
Imports from other suppliers?	High ___	Moderate X	Low ___
U.S. producers?	High X	Moderate ___	Low ___
What is the similarity of conditions of sale and distribution (such as lead times between order and delivery dates, payment terms, product service, minimum order size, variations in availability, etc.) between imports from this supplier and:			
Imports from other suppliers?	High ___	Moderate X	Low ___
U.S. producers?	High ___	Moderate X	Low ___
What is the substitution elasticity?	High ___	Moderate X	Low ___
Supply elasticity for affected imports:			
Can production in the country be easily expanded or contracted in the short term?		Yes ___	No X
Does the country have significant export markets besides the United States?		Yes X	No ___
Could exports from the country be readily redistributed among its foreign export markets?		Yes X	No ___
What is the price elasticity of supply for affected imports?	High ___	Moderate X	Low ___
Price level compared with--			
U.S. products	Above ___	Equivalent X	Below ___
Other foreign products	Above X	Equivalent ___	Below ___
Quality compared with--			
U.S. products	Above ___	Equivalent X	Below ___
Other foreign products	Above X	Equivalent ___	Below ___

Comment.–South Africa, the only AGOA supplier, is by far the largest exporter of manganese metal flake to the United States, accounting for about 80 percent of all imports during 2001. The next largest exporter, China, accounted for about 20 percent of all imports during the same time period. During 1997-2001, South Africa's import share fluctuated between 76 and 80 percent while China's fluctuated from 20 to 24 percent.[3] South Africa will likely remain a leading supplier of manganese metal flake as it is the largest producer, by far, of manganese ore (a primary production input for manganese metal flake) on a contained weight of manganese basis. China is the largest producer of manganese ore on a gross weight basis. In other words, manganese ore from South Africa contains a substantially higher percentage of manganese than that of China.[4] South African manganese metal is considered superior in quality to manganese metal from China.[5] In China, selenium is added during the production process which results in greater energy efficiency during production. Western producers do not add selenium because of concerns

[3] Official statistics of the U.S. Department of Commerce.

[4] *Minerals Yearbook*, U.S. Geological Survey, 2000.

[5] *Manganese Metal from the People's Republic of China*, USITC Publication 2939 (December 1995), p. II-14 and Petition, p. 15.

about the effect of selenium exposure on their production employees and concerns about the downstream impact on the consumer of the product.[6]

South Africa exports * * *. Leading export destinations for the year ending June 2000 included Canada with a *** percent share by volume; Europe, *** percent; Japan, *** percent, the United States, *** percent and all remaining countries *** percent.[7]

On February 6, 1996, an antidumping order was issued with respect to U.S. imports of manganese metal from China. In January 2001, a review to determine if the antidumping order should be revoked was initiated. The review was terminated in April 2001 because the only U.S. producer, Kerr-McGee, withdrew from participation in the review and the antidumping duty order on imports from China was revoked effective February 6, 2001.

On March 6, 2001, Kerr-McGee submitted a letter to the U.S. International Trade Commission stating that it was ceasing production of manganese metal, that it was the last domestic producer of manganese metal flake, and that it had no objection to eliminating the 14 percent import duty on unwrought manganese.[8]

V. Position of interested parties

Petitioner.–The petitioners before the U.S. Trade Representative are Eramet Marietta, Inc. and Manganese Metal Co. of South Africa. In the petition submitted by Manganese Metal Co. to the U.S. International Trade Commission, GSP treatment was requested for electrolytic manganese metal in flake form, electrolytic manganese metal powder, and manganese-aluminum briquettes. USTR's request letter only covered electrolytic manganese metal in flake form.

Support.–Seven purchasers of manganese metal from the South African producer submitted letters in support of the petition: Alcan Aluminum Corp., a major producer of aluminum products; Columbia Steel Casting Co., Inc., a manufacturer of steel parts; Chemalloy, a metal and alloy producer; Hickman, Williams & Co., a supplier of production materials to the metals industry; Jost Chemical Co., Inc., a manufacturer of high purity specialty chemicals; NAMTO Partners, an alloy producer; and Special Metals Corp., an alloy producer. Alcan claims that comparable domestic merchandise is not available. The other firms state that the 14 percent duty puts their businesses at a competitive disadvantage.[9]

Opposition.–Two firms submitted posthearing briefs in opposition to the petition; Shieldalloy Metallurgical Corp. (Shieldalloy) and CC Metals and Alloys, Inc. (CC Metals). Shieldalloy is a U.S. producer of manganese-aluminum products, including briquettes and tablets, that are sold primarily to aluminum producers for use in the production of container sheet ingot for aluminum beverage cans. CC Metals is a producer of a variety of alloys.

Shieldalloy said it objects to granting duty-free entry to manganese flake from sub-Saharan Africa for the following reasons: 1) the competitiveness of U.S. producers of manganese-aluminum compacted products made from manganese produced in other countries would be adversely affected; 2) Eramet would be granted an inequitable and unnecessary cost advantage; 3) U.S. consumers of the significant proportion of imports that will remain subject to the 14 percent duty would be disadvantaged; and 4) the South African producer would receive an inequitable and unnecessary competitive advantage.[10]

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[6] Hearing transcript, testimony of Steve Houser, Business Manager, Eramet, pp. 78-80.

[7] Petition, Appendix B.

[8] Petition, Appendix A1.

[9] See comments submitted by Alcan dated March 13, 2002 and letters submitted to the Commission by Columbia Steel Casting Co., Inc. (dated February 1, 2002), Chemalloy (February 18, 2002), Hickman, Williams & Co. (March 11, 2002), Jost Chemical Co., Inc. (March 18, 2002), Namto (February 18, 2002) and Special Metals Corp. (March 11, 2002).

[10] Posthearing brief of Shieldalloy, p. i.

CC Metals, in its posthearing brief, states that, "{the South African producer} will enjoy a decisive competitive advantage over Chinese manganese metal, and China will almost certainly disappear as an alternative source of supply in the U.S. market. This situation will place U.S. consumers in the precarious position of relying on one company in one country for their requirements of this vital input."[11]

[11] Posthearing brief of CC Metal, p. 2.

VI. Summary of probable economic effects advice-Addition (AGOA)

* * * * * * *

Table 1
Certain unwrought manganese (HTS Subheading 8111.00.45 (pt.)): U.S. imports for consumption, by principal sources, 1997-2001

Source	1997	1998	1999	2000	2001
	Value (*1,000 dollars*)				
South Africa	15,780	16,278	14,122	13,867	17,766
China	4,973	4,849	3,857	4,410	4,402
All other	0	0	0	0	0
Total	**20,753**	**21,127**	**17,978**	**18,277**	**22,169**
Total, AGOA GSP sources	**15,780**	**16,278**	**14,122**	**13,867**	**17,766**
	Share of total *(percent)*				
South Africa	76.0	77.0	78.5	75.9	80.1
China	24.0	23.0	21.5	24.1	19.9
All other	0.0	0.0	0.0	0.0	0.0
Total	**100.0**	**100.0**	**100.0**	**100.0**	**100.0**
Total, AGOA GSP sources	**76.0**	**77.0**	**78.5**	**75.9**	**80.1**

Note.—Because of rounding, figures may not add to totals shown. Values are on a customs value basis.

Source: Compiled from official statistics of the U.S. Department of Commerce.

APPENDIX A
U.S. TRADE REPRESENTATIVE'S REQUEST LETTER

Rec'd: 01/17/02
ER
SE

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

DOCKET NUMBER
3228
Office of the Secretary
Int'l Trade Commission

JAN 16 2002

DOCKET

RECEIVED
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OFC OF THE SECRETARY
US INT'L TRADE COMMISSION

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

Dear Chairman Koplan:

The Trade Policy Staff Committee (TPSC) has recently decided and will announce in the Federal Register the acceptance of two petitions for the modification of the Generalized System of Preferences (GSP) for certain articles as eligible articles under the GSP only for countries designated as a beneficiary sub-Saharan African country for purposes of the GSP program. In this connection, I am making the requests listed below.

In accordance with sections 503(a)(1)(B), 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 (USTR) 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 article identified in Part A of the enclosed annex is being considered for designation as an eligible article for purposes of the United States GSP, as set forth in Title V of the 1974 Act, only for countries designated as a beneficiary sub-Saharan African country in general note 16 of the Harmonized Tariff Schedule of the United States (HTS).

In accordance with sections 503(a)(1)(B), 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 article identified in Part A of the enclosed annex, as to the probable economic effect on United States industries producing like or directly competitive articles and on consumers of the elimination of United States import duties only for countries designated as a beneficiary sub-Saharan African country in general note 16 of the HTS.

In providing its advice on the article in Part A of the enclosed annex, I request the Commission to assume that the benefits of the GSP would continue to apply to imports that would be normally excluded from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the 1974 Act (an exemption from the application of the competitive need limits for the beneficiary sub-Saharan African country is provided for in section 503(c)(2)(D) of the 1974 Act).

The Honorable Stephen Koplan
Page Two

Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, I further request with respect to the article listed in Part B of the enclosed annex, that the Commission provided its advice as to the probable economic effect on United States industries producing like or directly competitive articles and on consumers of the removal of the article in Part B of the enclosed annex from eligibility for duty-free treatment under the GSP. The article is currently eligible for GSP only for countries designated as a beneficiary sub-Saharan African country in general note 16 of the HTS.

Under the provisions of the 1974 Act, the Commission has six months to provide the advice requested herein in accordance with sections 503(a)(1)(B), 503(e) and 131(a) of the 1974 Act on Part A of the enclosed annex. It would be greatly appreciated if the requested advice on Part A and B of the enclosed annex could be provided by April 25, 2002.

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 United States industries producing like or directly competitive articles and on 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 with the confidential sections contained therein. All business confidential information contained in the report should be clearly identified.

When the Commission's confidential report is provided to my Office, the Commission should issue, <u>as soon as possible</u> (if possible simultaneously), a public version of the report containing only the unclassified sections, with any business confidential information deleted.

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

Thank you & your staff again for the work on this & our other requests!

Sincerely,

Robert B. Zoellick

Enclosure

Annex

Case Number	HTS Subheading	Article	Petitioner

[The bracketed language in this Annex has been included only to clarify the scope of the numbered subheadings which are being considered, and such language is not itself intended to describe articles which are under consideration.]

A. Petition to add a product to the list of eligible articles for the Generalized System of Preferences only for countries designated as a beneficiary sub-Saharan African country in general note 16 of the Harmonized Tariff Schedule of the United States (HTS).

Case Number	HTS Subheading	Article	Petitioner
		Manganese and articles thereof, including waste and scrap:	
		[Waste and scrap]	
		Other:	
		Unwrought manganese:	
2001-AGOA-1	8111.00.45 pt	Flake containing at least 99.5% by weight of manganese	Eramet Marietta Inc., Marietta, OH; Manganese Metal Company (Pty) Ltd., South Africa

B. Petition to remove a product from the list of articles eligible for the Generalized System of Preferences only for countries designated as a beneficiary sub-Saharan African country in general note 16 of the HTS.

Case Number	HTS Subheading	Article	Petitioner
		Fruit, nuts and other edible parts of plants, otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:	
2001-AGOA-2	2008.40.00	Pears	Northwest Horticultural Council, Yakima, WA; Pacific Northwest Canned Pear Service, Yakima, WA; California Pear Advisory Board, Sacramento, CA; Washington-Oregon Canning Pear Assn., Yakima, WA; Pacific Coast Producers, Lodi, CA; Signature Fruit Co., LLC, San Roman, CA

APPENDIX B
U.S. INTERNATIONAL TRADE COMMISSION'S NOTICE OF INVESTIGATION

Comments are to be identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 2001.

Jane A. Axelrad,

Associate Director for Policy, Center for Drug Evaluation and Research.

[FR Doc. 02–2671 Filed 2–4–02; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

National Park Service

Concessions Management Advisory Board Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting of Concessions Management Advisory Board.

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App 1, section 10), notice is hereby given that the Concessions Management Advisory Board will hold its next meeting February 27 and 28, 2002 in Washington, DC. The meeting will be held at the Melrose Hotel located at 2430 Pennsylvania Avenue, NW, Washington, DC. The meeting will convene from 8:30 a.m. until 5 p.m. daily.

SUPPLEMENTARY INFORMATION: The Advisory Board was established by Title IV, Section 409 of the National Park Omnibus Management Act of 1998, November 13, 1998 (Public Law 105–391). The purpose of the Board is to advise the Secretary and the National Park Service on matters relating to management of concessions in the National Park System.

The Advisory Board will consider procedural matters and will be briefed and hold discussions on the proposed (Category III) simplified concession contracting procedures. The Board will also discuss its organizational and administrative procedures.

The meeting will be open to the public, however, facilities and space for accommodating members of the public are limited, and persons will be accommodated on a first-come-first-served basis.

Assistance to Individuals With Disabilities at the Public Meeting

The meeting site is accessible to individuals with disabilities. If you plan to attend and will need an auxiliary aid or service to participate in the meeting (*e.g.*, interpreting service, assistive listening device, or materials in an alternate format), notify the contact person listed in this notice at least 2 weeks before the scheduled meeting date. Attempts will be made to meet any request(s) we receive after that date, however, we may not be able to make the requested auxiliary aid or service available because of insufficient time to arrange for it.

Anyone may file with the Board a written statement concerning matters to be discussed. The Board may also permit attendees to address the Board, but may restrict the length of the presentations, as necessary to allow the Board to complete its agenda within the allotted time.

Interested persons may make oral/written presentations to the Advisory Board during the business meeting or file written statements. Such requests should be made to the Director, National Park Service, Attention: Manager, Concession Program, at least 7 days prior to the meeting. Further information concerning the meeting may be obtained from National Park Service, Concession Program, 1849 C Street NW, Room 7313, Washington, DC 20240, Telephone, 202/565–1210.

Draft minutes of the meeting will be available for public inspection approximately 6 weeks after the meeting, in room 7313, Main Interior Building, 1849 C Street, NW, Washington, DC.

Dated: January 22, 2002.

Fran P. Mainella,

Director, National Park Service.

[FR Doc. 02–2713 Filed 2–4–02; 8:45 am]

BILLING CODE 4310–70–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–437]

Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences with Respect to Certain Products Imported From AGOA Countries

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of hearing.

SUMMARY: On January 17, 2002, the Commission received a request from the United States Trade Representative (USTR) for an investigation under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) for the purpose of providing advice concerning possible modifications to the Generalized System of Preferences (GSP) with respect to certain products from beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA). Following receipt of the request, the Commission instituted investigation No. 332–437, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences with Respect to Certain Products Imported from AGOA Countries*, for the purpose of providing advice as follows:

(1) With respect to unwrought manganese flake as described by the USTR in its notice published in the **Federal Register** of January 24, 2002 (67 F.R. 3530), advice as to the probable economic effect on U.S. industries producing like or directly competitive articles and on consumers of the elimination of United States import duties only for countries designated as beneficiary sub-Saharan African countries under the African Growth and Opportunity Act (AGOA) in general note 16 of the Harmonized Tariff Schedule of the United States (HTS). The USTR requested that the Commission, in providing its advice, assume that the benefits of the GSP would continue to apply to imports that would be normally excluded from receiving such benefits by virtue of the competitive need limits specified in section 503(c)(2)(A) of the Trade Act of 1974 (1974 Act) (19 U.S.C. 2463(c)(2)(A)). The USTR noted that an exemption from the application of the competitive need limits for the beneficiary AGOA countries is provided for in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D); and

(2) With respect to prepared or preserved pears as described in HTS subheading 2008.40.00, advice as to the probable economic effect on United States industries producing like or directly competitive articles and on consumers of the removal of the article from eligibility for duty-free treatment under the GSP. The USTR noted that the article is currently eligible for GSP only for countries designated as beneficiary AGOA countries in general note 16 of the HTS. As requested by USTR, the Commission will seek to provide its advice not later than April 25, 2002.

EFFECTIVE DATES: January 29, 2002.

FOR FURTHER INFORMATION CONTACT: Project Manager, Douglas Newman (202–205–3328; *newman@usitc.gov*) in the Commission's Office of Industries. For information on legal aspects of the investigation contact William Gearhart of the Commission's Office of the

General Counsel (202–205–3091; *wgearhart@usitc.gov*). Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. 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. General information about the Commission may be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS On-Line) at *http://dockets.usitc.gov/eol/public/*.

Public Hearing: A public hearing in connection with this investigation is scheduled to begin at 9:30 a.m. on March 6, 2002, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. All persons have the right to appear by counsel or in person, to present information, and to be heard. Persons wishing to appear at the public hearing should file a letter with the Secretary, United States International Trade Commission, 500 E St., SW., Washington, DC 20436, not later than the close of business (5:15 p.m.) on February 20, 2002. In addition, persons appearing should file prehearing briefs (original and 14 copies) with the Secretary by the close of business on February 21, 2002. Posthearing briefs should be filed with the Secretary by the close of business on March 13, 2002. In the event that no requests to appear at the hearing are received by the close of business on February 20, 2002, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after February 20, 2002, to determine whether the hearing will be held.

Written Submissions: In lieu of or in addition to appearing at the public hearing, interested persons are invited to submit written statements concerning the investigation. Written statements should be received by the close of business on March 13, 2002. Commercial or financial information which a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). The Commission may include some or all of such confidential business information submitted in its report to the USTR. All written submissions, except for confidential business information, will be made available for inspection by interested persons. All submissions should be addressed to the Secretary at the Commission's office in Washington, DC. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting our TDD terminal on (202) 205–1810.

By order of the Commission.

Issued: January 31, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2701 Filed 2–4–02; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–454]

Notice of a Commission Determination Not To Review an Initial Determination Terminating the Investigation With Respect to Certain Patent Claims

In the Matter of Certain Set-Top Boxes and Components Thereof

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge's ("ALJ's") initial determination ("ID") granting a motion to terminate the investigation with respect to all allegations contained in the complaint relating to U.S. Letters Patent 5,253,066 (the '066 patent), claims 8 and 10 of U.S. Letters Patent 5,479,268 (the '268 patent), and claims 19 and 35 of U.S. Letters Patent 5,809,204 (the '204 patent).

FOR FURTHER INFORMATION CONTACT: Mary Elizabeth Jones, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone (202) 205–3106. Copies of the subject ID and all other nonconfidential 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. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TTD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (*http://www.usitc.gov*). The public record for this investigation may be viewed on the Commission's electronic docket (EDIS-ON-LINE) at *http://dockets.usitc.gov/eol/public*.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 16, 2001, based on a complaint by Gemstar-TV Guide International, Inc. of Pasadena, California, and StarSight Telecast, Inc. of Fremont, California, alleging violations of section 337 of the Tariff Act of 1930 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain set-top boxes and components thereof by reason of infringement of claims 18–24, 26–28, 31–33, 36, 42–43, 48–51, 54, 57–61, and 66 of U.S. Letters Patent 5,253,066 (the '066 patent); claims 1, 3, 8, and 10 of U.S. Letters Patent 5,479,268 (the '268 patent); and claims 14–17, 19, and 31–35 of U.S. Letters Patent 5,809,204 (the '204 patent).

On November 19, 2001, complainants Gemstar-TV Guide International, Inc. and StarSight Telecast, Inc. moved to termination the investigation with respect to all allegations contained in the complaint relating to the '066 patent, claims 8 and 10 of the '268 patent, and claims 19 and 35 of the '204 patent. Respondents EchoStar Communications Corporation and SCI Systems, Inc. opposed termination of the investigation as to the '066 patent.

On November 20, 2001, the presiding ALJ issued an ID (Order No. 44) granting the motion. No petitions for review of the ID were filed.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and Commission rule 210.42, 19 CFR 210.42.

By order of the Commission.

Issued: January 30, 2002.

Marilyn R. Abbott,

Acting Secretary.

[FR Doc. 02–2647 Filed 2–4–02; 8:45 am]

BILLING CODE 7020–02–P

APPENDIX C
LIST OF WITNESSES APPEARING BEFORE THE U.S. INTERNATIONAL TRADE COMMISSION AT THE HEARING ON MARCH 6, 2002

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 with Respect to Certain Products Imported from AGOA Countries

Inv. No.: 332-437

Date and Time: March 6, 2002 - 9:30 a.m.

Sessions were be held in connection with the investigation in the Main Hearing Room, 500 E Street, S.W., Washington, D.C.

ORGANIZATION AND WITNESS:

PANEL 1:

McDermott, Will & Emery
Washington, D.C.
on behalf of

U.S. Canned Pear Industry
Northwest Horticultural Council
Pacific Northwest Canned Pear Service
California Pear Advisory Board
Washington-Oregon Canning Pear Association
Pacific Coast Producers and Signature Fruit Company

Mark Powers, Vice President, Northwest Horticultural Council

Chris Zanobini, Executive Director, California Pear Advisory Board

Carolyn B. Gleason) – OF COUNSEL

- MORE -

ORGANIZATION AND WITNESS:

PANEL 2:

South African Embassy
Washington, D.C.

Nomaxabiso Majokweni, Minister (Economic), South African Embassy

and

South African Fruit & Vegetable Canners' Association (Pty) Ltd
South Africa
on behalf of

Ashton Canning Company (Pty) Ltd
RFF Foods (Pty) Ltd
S A Preserving Company (Pty) Ltd
Tiger Food Brands Ltd (Langeberg)

Wynand du Plessis, Director, South African Fruit & Vegetable Canners' . Association and CEO, Ashton Canning Company

Terence Robert Michael Malone, Manager, South African Fruit & Vegetable Canners' Association (Pty) Ltd

PANEL 3:

Verner Liipfert Bernhard McPherson and Hand
Washington, D.C.
on behalf of

Eramet Marietta Incorporated

Steve Houser, Business Manager, Special Products, Eramet Marietta Incorporated

Clifford E. Stevens, Jr.) – OF COUNSEL

- END -

APPENDIX D
MODEL FOR EVALUATING PROBABLE ECONOMIC EFFECTS OF CHANGES IN GSP STATUS

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

This appendix presents the method used to analyze the effects of tariff elimination for selected products from AGOA on total U.S. imports of affected products, competing U.S. industries, and U.S. consumers. First, the method is introduced. Then the derivation of the model for estimating changes in imports, U.S. domestic production, and consumer effects is presented.

Introduction

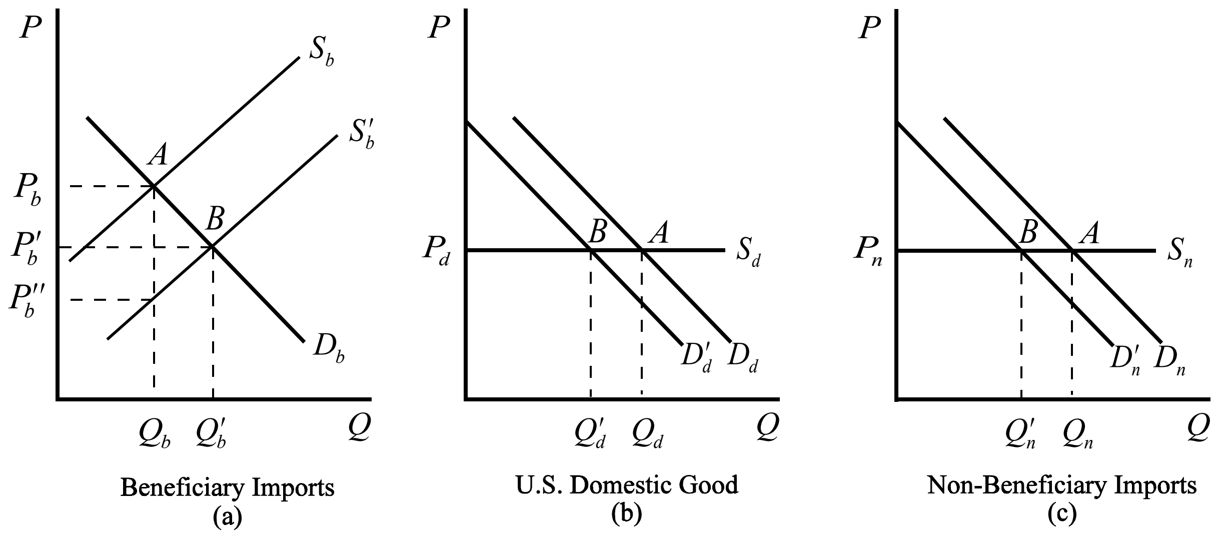
Commission staff used partial equilibrium modeling to estimate probable economic effects (PE) of immediate tariff elimination on total U.S. imports, competing U.S. industries, and U.S. consumers. The model used in this study is a nonlinear, imperfect substitutes model.[1] Trade data were taken from official statistics of the U.S. Department of Commerce. U.S. production data were estimated by USITC industry analysts. Elasticities were estimated by industry analysts in consultation with the assigned economist based on relevant product and market characteristics. Trade and production data used were for 2001, and tariff rates used were for 2001.

The following model illustrates the case of granting a product GSP duty-free status. The illustration is for a product for which domestic production, GSP imports, and non-GSP imports are imperfect substitutes, and shows the basic results of a tariff removal on a portion of imports.

Consider the market for imports from AGOA illustrated in fig. D-1, panel (a). The line labeled D_b is the U.S. demand for imports from AGOA, the line labeled S_b is the supply of imports from AGOA with the tariff in place, and the line labeled S_b' is the supply of imports from AGOA without the tariff (i.e., the product is receiving duty-free treatment under GSP). Point A is the equilibrium with the

[1] For derivations, see Paul S. Armington, "A Theory of Demand for Products Distinguished by Place of Production," *IMF Staff Papers*, vol. 16 (1969), pp. 159-176, and J. Francois and K. Hall, "Partial Equilibrium Modeling," in J. Francois and K. Reinert, eds., *Applied Methods for Trade Policy Analysis, A Handbook* (Cambridge: Cambridge University Press, 1997).

Figure D-1
Effect of Eliminating a Tariff for GSP Beneficiary Imports:
U.S. markets for GSP beneficiary imports (panel a), domestic production (panel b), and nonbeneficiary imports (panel (c)



tariff in place, and point B is the equilibrium without the tariff. Q_b and Q'_b are equilibrium quantities at A and B, respectively. P_b and P'_b are equilibrium prices at A and B, and P''_b is the price received by AGOA producers when the tariff is in place. The difference between P_b and P''_b denotes the tariff, t.

In the model, a tariff reduction leads to a decrease in the price of the import good and an increase in sales of the import good in the United States. The lower consumer price paid for the import in the United States leads to a reduction in the demand for U.S. production of the good, and for imports from non-GSP countries, as consumers substitute towards the lower priced import and away from the domestic and non-beneficiary imports. These demand shifts, along with supply responses to the lower demand, lead to the reduction in U.S. output and non-GSP imports. The magnitude of these shifts is determined by the degree of sensitivity to price changes, such as the demand elasticity, supply elasticity, and the degree of substitutability between domestic and imported goods.

The changes that take place in panel (a) lead to the changes seen in panels (b) and (c), where the demand curves shift from D_d and D_n to D'_d and D'_n, respectively. Equilibrium quantity in the market for domestic production moves from Q_d to Q'_d, and in a similar manner for the market for nonbeneficiary imports, equilibrium quantity falls from Q_n to Q'_n.

Derivation of Import, U.S. Production, and Consumer Effects

The basic building blocks of the model are shown below. Armington shows that if consumers have well-behaved constant elasticity of substitution (CES) utility functions, demand for a good in a product grouping can be expressed as follows:

$$q_i = b_i^{\sigma} q \left(\frac{p_i}{p} \right)^{-\sigma}$$

where q_i denotes quantity demanded for good i in the U.S. market;[2] p_i is the price of good i in the U.S. market; σ is the elasticity of substitution for the product grouping; q is the demand for the aggregate product (that is, all goods in the product grouping); p is a price index for the aggregate product (defined below); and b_i^{σ} is a constant.[3] The above equation can be derived as follows. The aggregate price index p is defined as

$$p = \left(\sum_i b_i^{\sigma} p_i^{1-\sigma} \right)^{\frac{1}{1-\sigma}} \quad . \tag{2}$$

[2] The product grouping consists of similar goods from different sources. For example, goods *i*, *j*, and *k* would indicate three similar goods from three different sources. See Armington (1969) for further discussion of the concept.

[3] Armington (1969), p. 167.

In addition the aggregate quantity index q can be defined as

$$q = k_A p^{\eta_A} \tag{3}$$

where k_A is a constant and η_A is the aggregate demand elasticity for the product grouping (natural sign).

Substituting equation (3) into equation (1) yields

$$q_i = b_i^{\sigma} k_A p^{\eta_A} \left(\frac{p_i}{p} \right)^{-\sigma} .$$

Further manipulation and simplification yields

$$q_i = b_i^{\sigma}\, k_A \frac{p^{(\sigma+\eta_A)}}{p_i^{\sigma}} ,$$

which establishes the demand for q_i in terms of prices, elasticities, and constants.

The supply of each good in the product grouping is represented in constant supply elasticity form:

$$q_i = K_{si}\, p_i^{\varepsilon_{si}} ,$$

where K_{si} is a constant and ε_{si} is the price elasticity of supply for good i.

Excess supply functions are set up for each good in the product grouping with the following general form:

$$K_{si}\, p_i^{\varepsilon_{si}} - b_i^{\sigma}\, k_A \frac{p^{\sigma+\eta_A}}{p^{\sigma}} = 0. \tag{4}$$

The model is calibrated using initial trade and production data and setting all internal prices to unity in the benchmark calibration. It can be shown that calibration yields $K_{si} = b_i^{\sigma} k_A$ for the i^{th} good so that equation (4) can be rendered as

$$p_i^{\varepsilon_{si}} - \frac{p^{\sigma+\eta_A}}{p_i^{\sigma}} = 0 \;. \tag{4N}$$

If there are n goods, the model consists of n equations like (4N) plus an equation for the price aggregator p, which are solved simultaneously in prices by an iterative technique.

For the case of adding a product to the list of products eligible for GSP duty-free treatment, the equations are as follows:

$$\left[p_b(1+t)\right]^{\varepsilon_{sb}} - \frac{p^{\sigma+\eta_A}}{p_b^{\sigma}} = 0$$ for imports from GSP beneficiary countries,

$$p_n^{\varepsilon_{sn}} - \frac{p^{\sigma+\eta_A}}{p_n^{\sigma}} = 0$$ for imports from nonbeneficiary countries,

$$p_d^{\varepsilon_{sd}} - \frac{p^{\sigma+\eta_A}}{p_d^{\sigma}} = 0$$ for U.S. domestic production, and

$$p = \left(\sum_{i=b,n,d} b_i^{\sigma} p_i^{1-\sigma}\right)^{\frac{1}{1-\sigma}}$$ for the price aggregator.

The prices obtained in the solution to these equations are used to calculate trade and production values, and resulting percentage changes in total imports and domestic production are computed relative to the original (benchmark) import and production values.

Consumer effects

Consumer effects are estimated in terms of the portion of the duty reduction that is passed on to U.S. consumers on the basis of the import demand and supply elasticity estimates. The formula for determining the division of the duty savings between U.S. consumers and foreign exporters is approximated by $SV = \frac{\eta_{ii}}{(\eta_{ii} - \varepsilon_{si})}$, where SV is the percentage of duty savings retained by exporters from source i, η_{ii} is the own price elasticity of demand,[4] and ε_{si} is the price elasticity of supply from source i. An "A" code indicates that more than 75 percent of the duty savings are retained by foreign exporters $\left(\frac{\eta_{ii}}{\eta_{ii} - \varepsilon_{si}} > 0.75\right)$, and less than 25 percent passed through to U.S. consumers. A "B" code

[4] At any given vector of prices, such as at the benchmark equilibrium, $\eta_{ii} = S_i\eta_A - (1 - S_i)\sigma$ is the own price elasticity of demand from imports from source i, where S_i is the share of total expenditures on the product grouping spent on good i at that vector of prices. See Armington, p. 175.

covers the range between 75 percent and 25 percent $\left(0.75 > \dfrac{\eta_{ii}}{\eta_{ii} - \varepsilon_{si}} > 0.25\right)$. A “C” code covers the case where less than 25 percent of the duty savings are retained by foreign exporters and more than 75 percent of the savings are passed through to U.S. consumers $\left(\dfrac{\eta_{ii}}{\eta_{ii} - \varepsilon_{si}} < 0.25\right)$.

The default assumption for the probable effect on consumers is a “B” code. This assumption reflects the possibility that short-run supply elasticities may be less than perfectly elastic and the world supply price may rise in the short run in the face of increased demand when U.S. duties are reduced. In the long run, unless there are extraordinary market structure circumstances, supply elasticities are likely to be perfectly elastic for any one product considered in isolation, implying that a “C” code for the consumer effects is probably more appropriate in the long run in most cases. “A” and “C” codes for consumer effects are assigned when analysts have information indicating that they are appropriate.