



United States  
International Trade Commission

# Generalized System of Preferences: Possible Modifications, 2018 Review

Publication Number: 4972  
Investigation Number: 332-572  
September 2019

# United States International Trade Commission

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United States International Trade Commission

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# Chapter 1

## Introduction<sup>1</sup>

This report provides advice relating to possible modifications to the U.S. Generalized System of Preferences (GSP)<sup>2</sup> program, as requested by the U.S. Trade Representative (USTR) in his letter of June 4, 2019.<sup>3</sup> Specifically, the USTR requested that the Commission provide advice concerning certain removals, waivers of the competitive need limitation (CNL), and redesignations. Set forth below is a broad description of the GSP program and relevant modifications, as well as information on the specific requests for advice.

## The Generalized System of Preferences

The U.S. GSP program is a U.S. trade preference program designed to promote economic growth in developing countries by providing preferential duty-free treatment for certain products from beneficiary developing countries (BDCs) and least-developed beneficiary developing countries (LDBDCs).<sup>4</sup> The GSP program was enacted by Congress as part of the Trade Act of 1974 (19 U.S.C. § 2461–2467, also “the statute” or “the 1974 Act”). The President’s authority to provide duty-free treatment under the program is time-limited and currently expires on December 31, 2020.<sup>5</sup> Congress has extended the President’s authority to provide duty-free treatment under the program multiple times since the provision was enacted. The statute sets out criteria under which the President may designate beneficiary countries and designate products as eligible for duty-free treatment under the program.<sup>6</sup> Before designating a product as eligible for duty-free treatment under the program, the President must obtain the advice of the Commission.<sup>7</sup>

The statute also authorizes the President to withdraw, suspend, or limit a country designation, and it requires the President to terminate the designation of a country that has become “high income.”<sup>8</sup> Similarly, the statute authorizes the President to withdraw, suspend, or limit the designation of a product, including a product from a country whose exports of that product to the United States exceed

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<sup>1</sup> The information in these chapters is for the purposes of this report only. Nothing in this report should be construed as an indication of any findings the Commission would make in an investigation conducted under any other statutory authority.

<sup>2</sup> For more information on the GSP program please refer to the USTR’s GSP website and the GSP Guidebook, both of which can be accessed at <https://ustr.gov/issue-areas/trade-development/preference-programs/generalized-system-preference-gsp>.

<sup>3</sup> The request consisted of the initial request letter from the USTR, dated June 4, 2019, and a correction from the USTR, submitted August 8, 2019, that was reflected in the notice published in the *Federal Register* on August 23, 2019. See appendixes A and B.

<sup>4</sup> USTR, *U.S. Generalized System of Preferences Guidebook*, April 2018, 3.

<sup>5</sup> 19 U.S.C. § 2465. See also USTR, *U.S. Generalized System of Preferences Guidebook*, April 2018, 3.

<sup>6</sup> 19 U.S.C. § 2462(b) and 2463(b).

<sup>7</sup> 19 U.S.C. § 2463(a)(1) and (e).

<sup>8</sup> 19 U.S.C. § 2462(d)–(e).

what is known as the “competitive need limitation” (CNL).<sup>9</sup> The statute defines the term “competitive need limitation,” allows for redesignation of a product from a country when imports from that country no longer exceed the limitation, and permits the President to waive the CNL when the President determines that certain conditions exist as explained further below.<sup>10</sup>

As noted above, for the 2018 GSP review, the USTR has asked the Commission to provide advice regarding (1) the removal of duty-free treatment for two products from Pakistan; (2) a waiver of CNLs for two products, one from Indonesia and the other from Thailand; and (3) the redesignation of three products, one from Thailand and two from Indonesia.<sup>11</sup>

The following terms are particularly pertinent to this review:

*Removal:* A removal of eligibility for duty-free treatment would result in the loss of duty-free treatment under the provisions of GSP for a specific article<sup>12</sup> from a specific country or countries. The statute authorizes the President to withdraw, suspend, or limit the application of duty-free treatment to articles after taking into account certain statutory factors.<sup>13</sup>

*Competitive need limitation:* The statute provides that the President shall, subject to certain exceptions, terminate duty-free treatment for imports of an article from a BDC when the import quantity of an eligible article (1) exceeds a dollar-value threshold (currently \$185 million) or (2) equals or exceeds 50 percent of total U.S. imports of that article from the world.<sup>14</sup> However, the requirement that imports of the eligible article equal or exceed 50 percent or more of total U.S. imports does not apply if no like or directly competitive article was produced in the United States during any of three preceding calendar years. The dollar value limit still applies, regardless of whether there has been like or directly competitive domestic production.<sup>15</sup>

*Waiver of a competitive need limitation:* The President may grant a waiver of the CNL under certain conditions.<sup>16</sup> For example, the President may waive the application of section 503(c)(2) (which sets out the CNL as a dollar amount and as a share of total imports), if the President receives the Commission’s advice, determines the waiver is in the national economic interest, and publishes the determination, all before November 1 of the applicable year.<sup>17</sup> Another condition is that the President may disregard the

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<sup>9</sup> 19 U.S.C. § 2463(c)–(d).

<sup>10</sup> 19 U.S.C. § 2463(c)(2), 2463(d).

<sup>11</sup> In contrast to most previous requests for Commission advice in relation to GSP, the USTR did not request for advice on the possible additions of products to the list of GSP-eligible articles.

<sup>12</sup> “Articles” for the purposes of GSP are classified by U.S. Customs and Border Protection as 8-digit provisions of the Harmonized Tariff Schedule of the United States (HTS).

<sup>13</sup> 19 U.S.C. § 2463(c)(1). Section 503(c)(1) refers to the factors set out in sections 501 and 502 of the Trade Act, including such factors as the effect the action will have on furthering the development of developing countries, the extent to which other major developed countries are undertaking a comparable effort, the anticipated impact on U.S. producers of like or directly competitive products, the competitiveness of the developing country with respect to eligible articles, the extent to which the developing country has assured the United States it will provide access to its markets, and the extent to which it provides adequate and effective protection to intellectual property rights.

<sup>14</sup> USTR, *U.S. Generalized System of Preferences Guidebook*, April 2018, 11.

<sup>15</sup> The statute states that the percentage limit “shall not apply if a like or directly competitive article was not produced in the United States in any of the preceding 3 calendar years.” 19 U.S.C. § 2463(c)(2)(E).

<sup>16</sup> Committee on Ways and Means, *Overview and Compilation of U.S. Trade Statutes: Part I of II*, December 2010, 24.

<sup>17</sup> 19 U.S.C. § 2463(d)(1).

percentage-share CNL if imports of the article from all countries are below a de minimis level. The de minimis level for 2018 is \$24 million.<sup>18</sup> The statute also sets out certain limitations on when the President may exercise his waiver authority.<sup>19</sup> If the President grants a waiver, it “remains in effect until the President determines that it is no longer warranted due to changed circumstances.”<sup>20</sup> However, the GSP statute states that the President should revoke any waiver that has been in effect for five years or more if imports from the beneficiary country exceed 1.5 times the annual dollar CNL or exceed 75 percent of the value of total imports of that article into the United States from the world during that calendar year.<sup>21</sup>

*Redesignation:* Once an article from a specific BDC has been removed from GSP eligibility because imports of the article have exceeded the CNL, it is eligible to be considered for redesignation if, in a later year, U.S. imports of that article from the BDC fall below the dollar and percentage limitations in the CNL.<sup>22</sup> A redesignation would restore duty-free treatment under the provisions of GSP for the article from the specified BDC. However, such redesignations are subject to the considerations in sections 501 and 502 of the 1974 Act, relating to the President’s authority to extend preferences and to the limitations on designating a country as a BDC or LDBDC.<sup>23</sup>

## Overview of the Request for Advice

As summarized in the notice of investigation published by the U.S. International Trade Commission (Commission or USITC) in the *Federal Register*,<sup>24</sup> the USTR asked that the Commission provide the following:

**(1) Advice concerning the probable economic effect of the removal of certain articles from Pakistan from eligibility for duty-free treatment.** The USTR notified the Commission that two articles from Pakistan are being considered for removal from eligibility for duty-free treatment under the GSP program. Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, with respect to the articles listed in table A of the annex to the request letter, the USTR requested that the Commission provide its advice as to the probable economic effect of the removal from eligibility for duty-free treatment under the GSP program for these articles from Pakistan on total U.S. imports, on

<sup>18</sup> USTR, *U.S. Generalized System of Preferences Guidebook*, April 2018, 12.

<sup>19</sup> For example, the President may not exercise the waiver authority in the case of an eligible article for which the value equals or exceeds 30 percent of the value of all imports entered duty-free under the GSP program. 19 U.S.C. § 2463(d)(4)(A). Similarly, the President may not exercise the waiver authority for an article when imports of the article in the preceding calendar year exceed 15 percent of the total value of imports entered duty free under the GSP program from those BDCs which, for the preceding calendar year, (1) the per capita gross national product exceeded a certain dollar amount, or (2) duty-free exports into the United States exceeded 10 percent of total imports entered duty free under the GSP program. 19 U.S.C. § 2463(d)(4)(B).

<sup>20</sup> USTR, *U.S. Generalized System of Preferences Guidebook*, April 2018, 11.

<sup>21</sup> 19 U.S.C. § 2463(d)(4)(B)(ii); Committee on Ways and Means, *Overview and Compilation of U.S. Trade Statutes: Part I of II*, December 2010, 24.

<sup>22</sup> 19 U.S.C. § 2463(c)(2)(C).

<sup>23</sup> 19 U.S.C. § 2461 and 19 U.S.C. § 2462 (for example, if a country is a Communist country, unless it is a WTO member; if the country has nationalized, expropriated, or otherwise seized ownership or control of property of U.S. citizens, and so forth).

<sup>24</sup> 84 Fed. Reg. 27159 (June 11, 2019). See appendix B; for the full language from the request letter, see appendix A.

U.S. industries producing like or directly competitive articles, and on U.S. consumers (see table A below<sup>25</sup>).

**Table A Petitions submitted to remove duty-free status from the listed countries for a product on the list of eligible articles for the Generalized System of Preferences<sup>26</sup>**

HTS subheading	Short description	Countries
3907.61.00	Polyethylene terephthalate, having a viscosity number of 78 ml/g or higher	Pakistan
3907.69.00	Polyethylene terephthalate, having a viscosity number less than 78 ml/g	Pakistan

**(2) Advice concerning the waiver of certain competitive need limitations.** The USTR notified the Commission that two articles are being considered for a waiver of the competitive need limitations (CNLs) for purposes of the GSP program. Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, and in accordance with section 503(d)(1)(A) of the 1974 Act, the USTR requested that the Commission provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the CNLs specified in section 503(c)(2)(A) of the 1974 Act for the countries and articles specified in table B of the annex to the request letter (see table B below).

The USTR also requested that the Commission provide its advice as to the probable economic effect on total U.S. imports, as well as on consumers, of the requested waivers. With respect to the CNL defined in section 503(c)(2)(A)(i)(I) of the 1974 Act, the USTR requested that the Commission use the dollar value limit of \$185 million. Further, pursuant to section 332(g) of the Tariff Act of 1930 and in accordance with section 503(c)(2)(E) of the 1974 Act, the USTR requested that the Commission provide its advice with respect to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.

**Table B Petitions submitted for waiver of GSP CNLs<sup>27</sup>**

HTS subheading	Short description	Countries
3823.11.00	Stearic acid	Indonesia
9001.50.00	Spectacle lenses of materials other than glass, unmounted	Thailand

**(3) Advice concerning redesignations.**<sup>28</sup> The USTR notified the Commission that three articles are being considered for redesignation as eligible articles for purposes of the GSP program. Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, the USTR requested that the Commission provide its advice as to the probable economic effect on total U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers of the elimination of

<sup>25</sup> Tables A–C in chapter 1 are shown as provided in the request letter from the USTR. The descriptions of the provisions of the Harmonized Tariff Schedule of the United States (HTS) found in these tables are not intended to delimit the scope of the HTS subheadings and may differ in the following chapters from those shown here.

<sup>26</sup> Detailed product descriptions appear in individual product chapters of this report.

<sup>27</sup> Detailed product descriptions appear in individual product chapters of this report.

<sup>28</sup> Relevant trade under HTS subheading 0603.13.00 from Thailand and HTS statistical reporting number 4412.31.4155 from Indonesia exceeded the CNL percentage threshold in 2018. However, the petitioners for each of the two products have requested a redesignation on the basis that no like or directly competitive products were produced in the United States during the preceding three calendar years and therefore the CNL should not apply. Imports under HTS subheading 4412.10.05 from Indonesia did not exceed the CNL in 2018.

U.S. import duties on the articles in table C of the annex to the request letter from the listed beneficiary countries (see table C below). Further, pursuant to section 332(g) of the Tariff Act of 1930 and in accordance with section 503(c)(2)(E) of the 1974 Act, the USTR requested that the Commission provide its advice as to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.

**Table C Petitions submitted for redesignation of excluded items from the listed countries<sup>29</sup>**

HTS subheading	Short description	Countries
0603.13.00	Orchids, fresh cut	Thailand
4412.10.05	Plywood, veneered panels and similar laminated wood, of bamboo	Indonesia
4412.31.4155	Plywood sheets n/o <sup>a</sup> 6 mm thick, with specified tropical wood outer ply, with face ply nesoi, not surface covered beyond clear/transparent	Indonesia

<sup>a</sup> N/o = not over; nesoi = not elsewhere specified or included.

## How the Commission Develops Advice on Whether a Like or Directly Competitive Article is Produced in the United States

For certain proposed modifications to the GSP program, the USTR asked that the Commission provide “advice as to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.” While the terms “like” or “directly competitive” are used in the GSP provisions of the 1974 Act, they are not defined in the GSP provisions or their legislative history.<sup>30</sup> In the absence of such definitions, for guidance the Commission looked to definitions of those terms elsewhere in the 1974 Act and its legislative history.

In providing its advice here, the Commission considered helpful the definitions of the terms “like” and “directly competitive” set out in the legislative history of the safeguard provisions in sections 201–203 of the Trade Act of 1974 as enacted in early 1975.<sup>31</sup> The report of the Committee on Finance defines the term “like” to mean articles “which are substantially identical in inherent or intrinsic characteristics (i.e., materials from which made, appearance, quality, texture, etc.)” It defines “directly competitive” articles to be “those which, although not substantially identical in their inherent or intrinsic characteristics, are substantially equivalent for commercial purposes, that is, are adapted to the same uses and are essentially interchangeable therefor.”

The Commission also found helpful the list of five factors that the Commission has traditionally used in safeguard investigations in defining a domestic article that is like or directly competitive with the imports under investigation—physical properties, manufacturing processes, product uses, marketing channels, and customs treatment.<sup>32</sup> However, the purpose of the two statutory schemes is distinct.

<sup>29</sup> Detailed product descriptions appear in individual product chapters of this report.

<sup>30</sup> In his letter requesting the Commission’s advice, the USTR specifically asked that such “like or directly competitive” advice be provided in accordance with section 503(c)(2)(E) of the Trade Act (19 U.S.C. § 2463(c)(2)(E)).

<sup>31</sup> Specifically, the Commission considered helpful “*The Report of the Committee on Finance, United States Senate, on H.R. 10710*,” Rept. No. 93-1298, 93d Congress, 2d Session (1974), 121–22.

<sup>32</sup> In its written views in safeguard investigations, the Commission has stated that this list of factors is not fixed, and the weight given to any one factor may vary from investigation to investigation depending upon the facts. See,

Here, the Commission has been asked to provide advice as to whether, in any of the preceding three calendar years, a domestic article was produced in the United States that was like or directly competitive with articles in the HTS subheadings that are the subject of the request from the USTR.

## Organization of the Report

Chapters 2–7 provide certain information and statistics related to each of the proposed modifications to the GSP program. They include the following sections: descriptions and uses of the subject products, advice on whether a like or directly competitive product was produced in the United States in the preceding three calendar years (if requested by USTR), a profile of the U.S. industry and market, GSP import data for the product, U.S. imports and exports, positions of interested parties,<sup>33</sup> and a bibliography. Chapter 8 contains the Commission’s probable economic effect advice for each of the proposed GSP modifications as well as the Commission’s probable economic effect advice methodology.<sup>34</sup>

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for example, the Commission’s views on injury in *Large Residential Washers*, Investigation No. TA-201-076, December 2017, 6.

<sup>33</sup> Interested parties had an opportunity to submit a written summary of their position, as described in the Commission’s notice of investigation published in the *Federal Register*. The Commission included summaries of the positions of interested parties in the relevant product chapters only in instances where parties supplied a written summary of their position. The Commission did not modify summaries submitted by interested parties.

<sup>34</sup> See appendix A for a copy of the USTR’s request letter, including a list of the proposed modifications to the GSP program. See appendix B for a copy of the Commission’s notice of investigation published in the *Federal Register*. See appendix C for a list of witnesses at the Commission’s public hearing, held on July 2, 2019.



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# Chapter 2

## Removal: Polyethylene Terephthalate Resin (Pakistan)<sup>35</sup>

**Table 2.1** Polyethylene terephthalate resin

HTS provision	Short description	Col. 1 rate of duty as of January 1, 2019
3907.61.00 <sup>a</sup>	Polyethylene terephthalate having a viscosity number of 78 ml/g or higher	6.5 percent
3907.69.00 <sup>b</sup>	Polyethylene terephthalate having a viscosity number of less than 78 ml/g	6.5 percent

<sup>a</sup> Harmonized Tariff Schedule (HTS) subheading 3907.61.00 is currently eligible for duty-free treatment for certain beneficiary developing countries under the provisions of GSP.

<sup>b</sup> HTS subheading 3907.69.00 is currently eligible for duty-free treatment for certain beneficiary developing countries under the provisions of GSP.

### Description and Uses

The product covered by this chapter is polyethylene terephthalate resin (PET resin),<sup>36</sup> which the Harmonized Tariff Schedule of the United States (HTS) classifies in two subheadings, depending on the viscosity number.<sup>37</sup> PET resin is a commodity-grade thermoplastic<sup>38</sup> polyester resin produced from purified terephthalic acid and monoethylene glycol.<sup>39</sup> PET resin is primarily sold in bulk form as chips or pellets to downstream consumers/converters that process them into finished products, particularly packaging material for food and non-food products. PET resin is relatively lightweight and has other useful qualities such as relatively high strength, transparency, thermal stability, impact resistance, and closure integrity. The products classified in HTS subheading 3907.61.00 are PET resins having a viscosity

<sup>35</sup> The PET Resin Coalition filed a petition with USTR requesting the removal of HTS subheadings 3907.61.00 and 3907.69.00 from the list of articles eligible for duty-free treatment under the provisions of GSP for Pakistan.

<sup>36</sup> The PET Resin Coalition previously requested the removal of HTS subheading 3907.60.00 from GSP eligibility for certain countries: in 2003 for all BDCs, and in 2008 for India and Indonesia. Both requests were reviewed, but the President did not grant the removals. In 2008, Indonesia requested a waiver of the competitive need limitation (CNL) for the same subheading and the request was accepted for review, but the President did not grant a CNL waiver. In 2015, the PET Resin Coalition requested the removal of PET resin from India from GSP eligibility. The request was accepted for review, and the President granted the request.

<sup>37</sup> From 2014 to 2016, all PET resin covered in this investigation was classified in HTS subheading 3907.60.00. In 2017, HTS subheading 3907.60.00 was replaced with HTS subheadings 3907.61.00 and 3907.69.00, the two HTS subheadings requested for removal.

<sup>38</sup> A thermoplastic polymer is a plastic material that can be softened or melted by heat and hardened by cooling. Collins Dictionary, "Thermoplastic," <https://www.collinsdictionary.com/us/dictionary/english/thermoplastic> (accessed May 22, 2019).

<sup>39</sup> PET Resin Coalition, "Petition for Withdrawal of GSP Duty Free Treatment for PET Resin from Pakistan under HTSUS Subheadings 3907.61.00 and 3907.69.00," petition to USTR, April 18, 2019, 3. Terephthalic acid and monoethylene glycol have been reported to account for over 75 percent of the cost of producing PET resin. USITC, *Polyethylene Terephthalate Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan*, 2018, V-1.

number of 78 milliliters per gram (ml/g) or higher. The products classified in HTS provision 3907.69.00 are PET resins with a viscosity number of less than 78 ml/g.

PET resins with a viscosity number of less than 78 ml/g (classified in HTS subheading 3907.69.00) are generally used to make products with end uses in the bottling and textile (apparel and home furnishing) industries (table 2.2).<sup>40</sup> The product produced depends in large part on the viscosity of the PET resin. PET resin with a viscosity number of 70 to 78 ml/g, referred to as water-grade PET resin, is used domestically to produce water bottles.<sup>41</sup> PET resins with a viscosity number ranging from 40 to 70 ml/g, called fiber-grade PET resins, are used in textile applications including shirts, pants, women's knits, fiberfill, upholstery, and carpets.<sup>42</sup>

PET resins with a viscosity number of 78 ml/g or higher (classified in HTS subheading 3907.61.00) are used in downstream consumer container applications such as bottles, freezer trays, and packaging (table 2.2). Products with a viscosity number of 78 to 82 ml/g are used to produce bottles for hot-fill bottle applications, and PET resins with viscosities of up to 88 ml/g are used to produce bottles for soft drinks.<sup>43</sup> Crystallizable PET resin (C-PET) has a viscosity number of 89 ml/g and is an input in the production of freezer trays, frozen food trays, and other products. C-PET does not have the translucency of lower-viscosity PET resin and is used to produce food containers and trays that can withstand both freezing and high temperatures. Such C-PET products include food trays that can go from the freezer to the microwave and kitchen tools, such as baking pans or molds.<sup>44</sup> Another product above the 88 ml/g range is polyethylene terephthalate glycol (PETG), which is produced from thermoplastic co-polymers. This product is easily vacuum formed and used in the production of blister packs and other types of mold-to-shape packaging. Given PETG's strong and glass-like qualities, it is also used to make thick film, protective covers, and retail displays.<sup>45</sup>

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<sup>40</sup> USITC, hearing transcript, July 2, 2019, 105 (testimony of John Freeman, Nan Ya Plastics Corporation, America).

<sup>41</sup> Gupta and Bashir, "PET Fibers, Films, and Bottles," 2008. Niagara Bottling produces water bottles with a viscosity number range of 74–78 ml/g. USITC, hearing transcript, July 2, 2019, 107 (testimony of Shawn Safieddin, Niagara Bottling). In USITC, *Polyethylene Terephthalate Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan*, I-10, 2018, the term "bottle-grade" in the scope refers to products with a viscosity number of 70–88 ml/g.

<sup>42</sup> Rosenthal, written submission to USITC, July 8, 2019, 9.

<sup>43</sup> USITC, hearing transcript, July 2, 2019, 107 (testimony of Shawn Safieddin, Niagara Bottling).

<sup>44</sup> Rosenthal, written submission to USITC, July 8, 2019, 9.

<sup>45</sup> Rosenthal, written submission to USITC, July 8, 2019, 9.

**Table 2.2** PET resin products by viscosity range and downstream uses, HTS subheadings 3907.61.00 and 3907.69.00

PET resin product	HTS 3907.69.00 viscosity (ml/g)	HTS 3907.61.00 viscosity (ml/g)	Downstream uses
Fiber-grade	40–70		Textiles including shirts, pants, fiberfill, women’s knits, upholstery, carpets
Bottle-grade for water (water-grade)	70–78 <sup>a</sup>		Water bottles
Bottle-grade for hot-fill applications		78–82	Hot fill bottles
Bottle-grade for soft drinks		≤88	Soft drink bottles
Crystallizable PET resin (C-PET)		89	Freezer and frozen food trays
PET glycol (PETG)		>88	Blister packs and other types of mold-to-shape packaging, thick film, protective covers, and retail displays

Sources: USITC, hearing transcript, July 2, 2019, 105 (testimony of John Freeman, Nan Ya Plastics Corporation, America), 107 (testimony of Shawn Safieddin, Niagara Bottling); Rosenthal, written submission to USITC, July 8, 2019, 9.

<sup>a</sup> At a viscosity of 78 ml/g, water-grade PET resin would be classified in HTS subheading 3907.61.00.

## Profile of U.S. Industry and Market, 2014–18

The U.S. PET resin industry consists principally of four subsidiaries of large multinational producers.<sup>46</sup> DAK Americas, LLC (DAK) is a wholly owned subsidiary of Mexico-based ALFA S.A.B. de C.V. and produces PET resin in North Carolina, South Carolina, and Mississippi. Indorama Ventures Public Company Limited (Indorama Ventures) has headquarters in Thailand and produces PET resin in North Carolina, South Carolina, and Alabama. Nan Ya Plastics Corporation, America, a wholly owned subsidiary of Nan Ya Plastics Corporation of Taiwan, has a PET resin plant in South Carolina. Far Eastern New Century (FENC), headquartered in Taiwan, has a PET resin plant in West Virginia.<sup>47</sup>

<sup>46</sup> The PET Resin Coalition, which filed the petition requesting these removals, is an ad hoc group of U.S. PET resin producers. It is composed of DAK, Indorama Ventures, and Nan Ya Plastics Corporation, America. M&G Chemicals was a member of the PET Resin Coalition but filed for bankruptcy in October 2017. PET Resin Coalition, “Petition for Withdrawal of GSP Duty Free Treatment for PET Resin from Pakistan under HTSUS Subheadings 3907.61.00 and 3907.69.00,” petition to USTR, April 18, 2019, 2.

<sup>47</sup> M&G Chemicals’ PET resin plant in West Virginia was purchased by FENC in the second half of 2018. FENC accounts for an estimated 6–7 percent of U.S. production of PET resin. PET Resin Coalition, “Petition for Withdrawal of GSP Duty Free Treatment for PET Resin from Pakistan under HTSUS Subheadings 3907.61.00 and 3907.69.00,” petition to USTR, April 18, 2019, 2.

U.S. production of PET resin spans the range of viscosity numbers, including fiber-grade (40–70 ml/g), bottle-grade (70–88 ml/g), crystallizable (89 ml/g), and polyethylene terephthalate glycol (> 88 ml/g).<sup>48</sup>

The PET resin industry in the United States has been [\*\*\*] in terms of employment and production over the past three years. As shown in table 2.3, U.S. PET resin production [\*\*\*], and capacity utilization generally [\*\*\*] to [\*\*\*] in 2018.<sup>49</sup>

U.S. consumption of PET resin is driven by the demand for the various finished products that use packaging and textiles made from PET resin. Consumers reportedly prefer PET resin to alternative materials because it is “inexpensive, lightweight, resealable, shatter-resistant, and recyclable.”<sup>50</sup> The United States is a large market for PET resin, sales of which [\*\*\*].<sup>51</sup> The largest end use for PET resin in the United States is the production of beverage containers, which use PET resin with a viscosity range of 70–88 ml/g.<sup>52</sup> Apparent U.S. consumption of PET resin is largely driven by demand for water bottles, packaging, and carpeting.<sup>53</sup> Data indicate that apparent U.S. consumption of bottle-grade PET resin increased by 2.6 percent from 2015 to 2017.<sup>54</sup> According to industry representatives, U.S. PET resin consumption is expected to continue to grow.<sup>55</sup>

Domestically produced and imported PET resin generally compete directly in the U.S. market.<sup>56</sup> Based on available data, U.S. PET resin production exceeds imports, with imports equal to about [\*\*\*] (table 2.3).<sup>57</sup> Because U.S.-produced and imported PET resin generally compete directly, price is an important factor in market competition, and small differences in the price of PET resin can affect the financial performance of the PET resin industry, which is reportedly capital-intensive.<sup>58</sup>

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<sup>48</sup> Rosenthal, written submission to USITC, July 8, 2019, 8–9.

<sup>49</sup> Production data are only for PET resins with viscosity numbers of 70–88 ml/g, a subset of the PET resins covered in this investigation.

<sup>50</sup> PET Resin Coalition, “Petition for Withdrawal of GSP Duty Free Treatment for PET Resin from Pakistan under HTSUS Subheadings 3907.61.00 and 3907.69.00,” petition to USTR, April 18, 2019, 3.

<sup>51</sup> Based on [\*\*\*]. Latest data available are from 2017. IHS Markit, “Polyethylene Terephthalate (PET) Solid-State Resins,” March 2018, 49.

<sup>52</sup> IHS Markit, “Polyethylene Terephthalate (PET) Solid-State Resins,” March 2018, 49. Global consumption of PET resin is driven by the production of beverage containers, which accounted for 79 percent of the total world consumption in 2017. IHS Markit, “Polyethylene Terephthalate (PET) Solid-State Resins,” summary of report, March 2018.

<sup>53</sup> USITC, *Polyethylene Terephthalate Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan*, 2018, IV-21.

<sup>54</sup> USITC, *Polyethylene Terephthalate Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan*, 2018, IV-21.

<sup>55</sup> USITC hearing transcript, July 2, 2019, 119 (testimony of Ricky Lane, DAK Americas).

<sup>56</sup> USITC, hearing transcript, July 2, 2019, 122 (testimony of John Freeman, Nan Ya Plastics Corporation, America).

<sup>57</sup> Production data are only for PET resins with viscosity numbers of 70–88 ml/g, a subset of the PET resins covered in this investigation.

<sup>58</sup> USITC hearing transcript, July 2, 2019, 86 (testimony of John Freeman, Nan Ya Plastics Corporation, America), 125 (testimony of Paul C. Rosenthal, counsel, Kelley, Drye & Warren LLP, for the PET Resin Coalition); Rosenthal, written submission to USITC, July 8, 2019, 5–6, 13. In 2018, an unfinished PET resin plant in Corpus Christi, Texas, was sold for \$1.1 billion. Esposito, “JV Formed to Buy M&G Texas Plant,” March 22, 2018.

**Table 2.3** Polyethylene terephthalate resin (HTS provisions 3907.61.00 and 3907.69.00): U.S. producers, employment, production, trade, consumption, and capacity utilization, 2014–18

Item	2014	2015	2016	2017	2018
Producers (number)	4	4	4	4	4
Employment (1,000 employees)	(a)	(a)	[* * *]	[* * *]	[* * *]
Production (1,000 \$) <sup>b</sup>	(a)	(a)	[* * *]	[* * *]	[* * *]
Exports (1,000 \$) <sup>c</sup>	499,875	422,773	378,908	352,334	351,207
Imports (1,000 \$) <sup>d</sup>	1,218,601	997,932	994,621	1,054,648	1,466,471
Consumption (1,000 \$) <sup>e</sup>	(a)	(a)	(a)	(a)	(a)
Import-to-consumption ratio (%)	(a)	(a)	(a)	(a)	(a)
Capacity utilization (%) <sup>e</sup>	81	81	[* * *]	[* * *]	[* * *]

Source: Trade data compiled from official statistics from the U.S. Department of Commerce; employment, production, and capacity utilization data for 2016–18 reported by the PET Resin Coalition, “Petition for Withdrawal of GSP Duty Free Treatment for PET Resin from Pakistan under HTSUS Subheadings 3907.61.00 and 3907.69.00,” petition to USTR, April 18, 2019, exhibit 2.

Note: The PET Resin Coalition’s data are for three of the four U.S. producers (DAK, Indorama Ventures, and Nan Ya Plastics Corporation, America). The PET Resin Coalition estimates that these three producers accounted for about 93 percent of all U.S. production of PET resin in 2018. These data also encompass only PET resins with viscosity numbers of 70–88 ml/g, a subset of the PET resins covered in this investigation. Rosenthal, “Post-Hearing Brief on Behalf of the U.S. PET Resin Coalition,” July 8, 2019, 11.

<sup>a</sup> Not available.

<sup>b</sup> Values reported are U.S. shipment values.

<sup>c</sup> Schedule B number 3907.60.0000 was split into Schedule B numbers 3907.61.0000 and 3907.69.0000 in 2017. The values of these two Schedule B numbers were added together to determine the total export values for 2017–18.

<sup>d</sup> HTS subheading 3907.60.00 was subdivided into HTS subheadings 3907.61.00 and 3907.69.00 in 2017. The import values for these two HTS subheadings were added together to determine the total import values for 2017–18.

<sup>e</sup> Data for 2014 are from USITC, *Polyethylene Terephthalate (PET) Resin from Canada, China, India, and Oman*, C-4 (4 producers). Data from 2015 are from USITC, *Polyethylene Terephthalate Resin from Brazil, Indonesia, Korea, Pakistan, and Taiwan*, 2018, C-4 (4 producers).

## GSP Imports, 2018

In 2018, imports from GSP-eligible countries accounted for 24.9 percent of the total value of U.S. imports classified in HTS subheading 3907.61.00 (table 2.4) and 27.9 percent of the total value of U.S. imports classified in HTS subheading 3907.69.00 (table 2.5). Imports from Pakistan accounted for 6.3 percent of the total value of U.S. imports classified under HTS subheading 3907.61.00 (table 2.4) and 0.8 percent under HTS subheading 3907.69.00 (table 2.5).

The Pakistani producer Novatex testified at the Commission’s hearing and filed written submissions. The representative who appeared at the hearing said that Pakistan has a small PET resin manufacturing industry and that Novatex is the only Pakistani company exporting PET resin to the United States.<sup>59</sup> In a written submission, Novatex reported that its annual production capacity is 761 million pounds (345,000 metric tons),<sup>60</sup> which is equal to about [\* \* \*] of U.S. production.<sup>61</sup> Novatex primarily ships bottle-grade PET resins with viscosity numbers of 70–88 ml/g.<sup>62</sup> Novatex estimated Pakistan’s share of U.S. consumption for products of 70–88 ml/g was 2.5 percent.<sup>63</sup>

<sup>59</sup> USITC, hearing transcript, July 2, 2019, 93 (testimony of Rizwan Diwan, Novatex).

<sup>60</sup> Jacobs, written submission to USITC, July 8, 2019, 3.

<sup>61</sup> See petition exhibit 2, year 2018; production quantity is used to calculate percentage. PET Resin Coalition, “Petition for Withdrawal of GSP Duty Free Treatment for PET Resin from Pakistan under HTSUS Subheadings 3907.61.00 and 3907.69.00,” petition to USTR, April 18, 2019, exhibit 2.

<sup>62</sup> Jacobs, written submission to USITC, July 8, 2019, 13.

<sup>63</sup> USITC, hearing transcript, July 2, 2019, 93 (testimony of Rizwan Diwan, Novatex).

**Table 2.4** Polyethylene terephthalate resin with a viscosity number of 78 ml/g or higher (HTS provision 3907.61.00): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, 2018

Item	Imports (1,000 \$)	% of total imports	% of GSP imports	% of U.S. consumption
Total U.S. imports from all sources	1,250,446	100.0	(a)	(b)
U.S. imports from GSP-eligible countries:				
Thailand	85,134	6.8	27.3	(b)
Turkey	80,247	6.4	25.8	(b)
Pakistan	79,366	6.3	25.5	(b)
South Africa	53,437	4.3	17.2	(b)
All other	13,206	1.1	4.2	(b)
Total from GSP-eligible countries	311,390	24.9	100.0	(b)

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

<sup>a</sup> Not applicable.

<sup>b</sup> Not available.

**Table 2.5** Polyethylene terephthalate resin with a viscosity number of less than 78 ml/g (HTS provision 3907.69.00): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, 2018

Item	Imports (1,000 \$)	% of total imports	% of GSP imports	% of U.S. consumption
Total U.S. imports from all sources	216,025	100.0	(a)	(b)
U.S. imports from GSP-eligible countries:				
India	30,472	14.1	50.6	(b)
Thailand	12,563	5.8	20.9	(b)
Indonesia	7,904	3.7	13.1	(b)
Turkey	5,679	2.6	9.4	(b)
Brazil	1,824	0.8	3.0	(b)
Pakistan	1,794	0.8	3.0	(b)
All other	8	(c)	(c)	(b)
Total from GSP-eligible countries	60,245	27.9	100.0	(b)

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

<sup>a</sup> Not applicable.

<sup>b</sup> Not available.

<sup>c</sup> Less than 0.05 percent.

## U.S. Imports and Exports

During 2017–18, Canada and Mexico were the largest suppliers of U.S. imports under HTS subheading 3907.61.00, as both countries benefited from close proximity to the U.S. market and duty-free treatment under NAFTA (table 2.6). In 2018, Canada and Mexico accounted for 33.5 percent and 10.2 percent, respectively, of total imports. During 2017–18, the greatest volume of imports under HTS subheading 3907.69.00 came from South Korea and Canada (table 2.7). In 2018, South Korea and Canada accounted for 17.2 percent and 14.8 percent, respectively, of total imports.

The largest markets for U.S. exports in 2018 under Schedule B 3907.61.0000 were Mexico, which accounted for 55.9 percent of total U.S. exports, and Canada, which accounted for 18.1 percent (table 2.8). U.S. firms benefited from close proximity to Mexico and Canada. The largest markets for exports under Schedule B 3907.69.0000 were the Netherlands, which accounted for 24.2 percent of total U.S.



exports; Mexico, which accounted for 17.4 percent; and Canada, which accounted for 14 percent (table 2.9).

**Table 2.6** Polyethylene terephthalate resin with a viscosity number of 78 ml/g or higher (HTS subheading 3907.61.00): U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)

	2014	2015	2016	2017	2018
<b>Imports from all sources:</b>					
Mexico <sup>a</sup>	(b)	(b)	(b)	263,892	418,998
Canada <sup>a</sup>	(b)	(b)	(b)	67,481	128,262
Thailand	(b)	(b)	(b)	9,162	85,134
Oman <sup>a</sup>	(b)	(b)	(b)	8,330	84,007
Turkey	(b)	(b)	(b)	7,379	80,247
Pakistan	(b)	(b)	(b)	51,217	79,366
Malaysia	(b)	(b)	(b)	3,284	69,973
Taiwan	(b)	(b)	(b)	119,720	59,941
Russia	(b)	(b)	(b)	3,786	57,010
South Africa	(b)	(b)	(b)	0	53,437
All other	(b)	(b)	(b)	196,275	134,071
<b>Total</b>	(b)	(b)	(b)	<b>730,525</b>	<b>1,250,446</b>
<b>Imports from GSP-eligible countries:</b>					
Thailand	(b)	(b)	(b)	9,162	85,134
Turkey	(b)	(b)	(b)	7,379	80,247
Pakistan	(b)	(b)	(b)	51,217	79,366
South Africa	(b)	(b)	(b)	0	53,437
Ecuador	(b)	(b)	(b)	4,675	7,252
Egypt	(b)	(b)	(b)	1,716	4,759
Jamaica	(b)	(b)	(b)	254	542
India	(b)	(b)	(b)	824	401
Indonesia	(b)	(b)	(b)	42,010	126
Haiti	(b)	(b)	(b)	162	116
All other	(b)	(b)	(b)	59,105	10
<b>Total</b>	(b)	(b)	(b)	<b>176,504</b>	<b>311,390</b>

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

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

<sup>a</sup> Free trade agreement partner.

<sup>b</sup> Import data for 2014 to 2016 are not available for this HTS subheading. HTS subheading 3907.61.00 was created in 2017 from products previously contained within HTS subheading 3907.60.000. HTS subheading 3907.60.00 contained additional products (all PET resin) and is therefore not comparable in scope to HTS subheading 3907.61.00.

**Table 2.7** Polyethylene terephthalate resin with a viscosity number of less than 78 ml/g (HTS subheading 3907.69.00): U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)

	2014	2015	2016	2017	2018
<b>Imports from all sources:</b>					
South Korea <sup>a</sup>	(b)	(b)	(b)	56,023	37,174
Canada <sup>a</sup>	(b)	(b)	(b)	46,716	31,906
India	(b)	(b)	(b)	8,036	30,472
Mexico <sup>a</sup>	(b)	(b)	(b)	18,689	23,443
Taiwan	(b)	(b)	(b)	34,241	13,723
Vietnam	(b)	(b)	(b)	0	13,364
Thailand	(b)	(b)	(b)	5,152	12,563
Honduras <sup>a</sup>	(b)	(b)	(b)	178	9,037
Indonesia	(b)	(b)	(b)	2,898	7,904
China	(b)	(b)	(b)	1,899	6,655
All other	(b)	(b)	(b)	150,292	29,783
<b>Total</b>	(b)	(b)	(b)	<b>324,123</b>	<b>216,025</b>
<b>Imports from GSP-eligible countries:</b>					
India	(b)	(b)	(b)	8,036	30,472
Thailand	(b)	(b)	(b)	5,152	12,563
Indonesia	(b)	(b)	(b)	2,898	7,904
Turkey	(b)	(b)	(b)	1,135	5,679
Brazil	(b)	(b)	(b)	93,599	1,824
Pakistan	(b)	(b)	(b)	31,377	1,794
Sri Lanka	(b)	(b)	(b)	0	8
Egypt	(b)	(b)	(b)	114	0
Ecuador	(b)	(b)	(b)	219	0
Haiti	(b)	(b)	(b)	10	0
<b>Total</b>	(b)	(b)	(b)	<b>142,540</b>	<b>60,245</b>

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

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

<sup>a</sup> Free trade agreement partner.

<sup>b</sup> Import data for 2014 to 2016 are not available for this HTS subheading. HTS subheading 3907.69.00 was created in 2017 from products previously contained within HTS subheading 3907.60.00. HTS subheading 3907.60.00 contained additional products (all PET resin) and is therefore not comparable to HTS subheading 3907.69.00.

**Table 2.8** Polyethylene terephthalate resin with a viscosity number of 78 ml/g or higher (Schedule B 3907.61.0000): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)

	2014	2015	2016	2017	2018
Mexico <sup>a</sup>	(b)	(b)	(b)	53,062	55,139
Canada <sup>a</sup>	(b)	(b)	(b)	14,201	17,863
China	(b)	(b)	(b)	3,643	8,337
Malaysia	(b)	(b)	(b)	693	2,926
Chile <sup>a</sup>	(b)	(b)	(b)	5,104	1,824
Costa Rica <sup>a</sup>	(b)	(b)	(b)	81	1,806
Venezuela	(b)	(b)	(b)	4,498	1,487
South Korea <sup>a</sup>	(b)	(b)	(b)	821	1,140
Colombia <sup>a</sup>	(b)	(b)	(b)	374	999
Romania	(b)	(b)	(b)	0	889
All other	(b)	(b)	(b)	8,633	6,199
Total	(b)	(b)	(b)	91,111	98,611

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

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

<sup>a</sup> Free trade agreement partner.

<sup>b</sup> Export data for 2014 to 2016 are not available for this Schedule B number. Schedule B number 3907.61.00 was created in 2017 from products previously contained within Schedule B number 3907.60.00. Schedule B number 3907.60.00 contained additional products and is therefore not comparable to Schedule B number 3907.61.00.

**Table 2.9** Polyethylene terephthalate resin with a viscosity number of less than 78 ml/g (Schedule B 3907.69.0000): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Netherlands	(a)	(a)	(a)	82,227	61,198
Mexico <sup>b</sup>	(a)	(a)	(a)	47,459	43,982
Canada <sup>b</sup>	(a)	(a)	(a)	35,154	35,343
China	(a)	(a)	(a)	21,569	28,483
United Kingdom	(a)	(a)	(a)	16,688	16,917
Japan	(a)	(a)	(a)	11,206	13,729
Germany	(a)	(a)	(a)	8,622	12,117
France	(a)	(a)	(a)	8,485	11,299
Portugal	(a)	(a)	(a)	5,750	5,566
Malaysia	(a)	(a)	(a)	3,156	4,503
All other	(a)	(a)	(a)	20,908	19,459
Total	(a)	(a)	(a)	261,224	252,596

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

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

<sup>a</sup> Export data for 2014 to 2016 are not available for this schedule B number. Schedule B number 3907.69.00 was created in 2017 from products previously contained within Schedule B number 3907.60.00. Schedule B number 3907.60.00 contained additional products and is therefore not comparable to Schedule B number 3907.69.00.

<sup>b</sup> Free trade agreement partner.

## Positions of Interested Parties

**Petitioner:** The petition was filed by the PET Resin Coalition. The PET Resin Coalition filed written submissions, and representatives appeared at the Commission hearing.

**In opposition:** CG Roxane, LLC, filed a written submission.

**In opposition:** Niagara Bottling LLC filed written submissions, and a representative of Niagara Bottling appeared at the Commission hearing.

**In opposition:** Novatex Limited (Novatex) filed written submissions, and representatives of Novatex appeared at the Commission hearing. Novatex's written summary as submitted to the Commission is provided below.

Novatex Limited, the sole Pakistani company exporting PET resin to the United States, opposes the U.S. PET Resin Coalition's petition to withdraw GSP treatment for PET resin from Pakistan. Novatex depends on GSP treatment to be competitive in the U.S. market. The application of the 6.5 duty would likely result in Novatex's elimination from the U.S. market, with no effect on the financial condition or operations of the U.S. PET resin industry or on the overall volume or pricing of imports of PET resin into the United States, although it would require institutional consumers to establish alternative sources to ensure that they have sufficient diversity of supply to withstand periods of force majeure or supply shortages.

Novatex is a private family-owned company located in Karachi. It began operations in 1997, initially producing textile grade resin. Novatex began producing bottle grade PET resin in 2002 and underwent expansions of its PET resin capacity in 2007 and 2016. Novatex's total PET resin production capacity is 345,000 metric tons, a size that is considered relatively small, but there are no further expansion plans. Currently, about half of Novatex's production is dedicated to its domestic market, which is growing. Novatex will be dedicating more of its capacity to the Pakistan market. Novatex exports about a quarter of its capacity to the U.S., with the remainder to other countries. The only other Pakistan producer is very small and does not export.

The withdrawal petition was filed after the Commission unanimously determined in November 2018 that imports of PET resin from Brazil, Indonesia, Korea, Pakistan and Taiwan, neither materially injure nor threaten with material injury the U.S. industry. If the cumulated imports of PET resin from five countries (of which Pakistan has the smallest capacity) are not a cause of the asserted injured or vulnerable condition of the U.S. industry, removing GSP treatment for Pakistan will not repair any alleged "financial deterioration" of the U.S. PET resin industry.

Novatex is not underselling U.S. producers. Because Pakistan is a less developed country, Novatex's utility costs are high and it incurs higher banking, regulatory and infrastructure costs than factories in more developed countries. Even with GSP, Novatex often loses sales because it cannot match prices and terms offered by other suppliers.

While withdrawal of GSP treatment would render Novatex uncompetitive, other import sources, particularly from plants associated with the multinational U.S. producers, including in Mexico,

Canada, Thailand and Turkey, which already account for much of the U.S. imports, will likely fill that small void, adding to the concentration of the industry.

Thus, in a growing U.S. market, GSP removal for Pakistan PET resin would have no effect on total U.S. imports because other imports will replace the imports from Novatex, have no effect on the much larger, highly concentrated and vertically-integrated U.S. industry, and will compel U.S. institutional consumers to seek out alternative sources to ensure sufficient supply diversification.

No other statements were received by the Commission in support of, or in opposition to, the proposed modification to GSP considered for this subheading.

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# Chapter 3

## Competitive Need Limitation (CNL)

### Waiver: Stearic Acid (Indonesia)<sup>64</sup>

**Table 3.1** Stearic acid

HTS provision	Short description	Col. 1 rate of duty as of January 1, 2019
3823.11.00 <sup>a</sup>	Stearic acid	2.1 cents per kg plus 3.8 %

<sup>a</sup> Data for 2018 trade show that Indonesia exceeded the percentage-based competitive need limitation (CNL) for Harmonized Tariff Schedule (HTS) subheading 3823.11.00 in 2018.

## Description and Uses

The product classified in Harmonized Tariff Schedule (HTS) subheading 3823.11.00 is stearic acid. Stearic acid is a saturated fatty acid used in product formulations, in industrial processes, and as an input for manufacturing other chemicals. The term “stearic acid” is used to describe both high-purity octadecanoic acid and octadecanoic acid mixed with other fatty acids. For the purposes of this chapter, “stearic acid” refers only to the products classified in HTS subheading 3823.11.00, which are mixtures of octadecanoic acid with other saturated fatty acids where the concentration of octadecanoic acid is less than 90 percent.<sup>65</sup> Higher-purity product, where the concentration of octadecanoic acid is greater than 90 percent, is imported under HTS statistical reporting number 2915.70.0120 and is not within the scope of this investigation. The balance of these mixtures is primarily composed of hexadecanoic acid, with specific grades having different ratios of the two chemicals.<sup>66</sup> For example, domestic producer Emery Oleochemicals offers a suite of grades ranging from 45 to 64 percent octadecanoic acid as a fraction of total fatty acid.<sup>67</sup>

In its refined form, stearic acid is a white, waxy solid with a characteristic odor. The fatty acids used in U.S.-produced stearic acid are primarily derived from tallow and plant oils, while the fatty acids used in Indonesian-produced stearic acid are primarily derived from palm oil.<sup>68</sup>

<sup>64</sup> Petitions were filed with the U.S. Trade Representative (USTR) by American eChem, Inc., and the government of Indonesia. The petitions requested a waiver of the competitive need limitation (CNL) for HTS subheading 3823.11.00 under the provisions of GSP for Indonesia.

<sup>65</sup> Octadecanoic acid (C<sub>18</sub>H<sub>36</sub>O<sub>2</sub>), Chemical Abstracts Service (CAS) number 57-11-4.

<sup>66</sup> Hexadecanoic acid (C<sub>16</sub>H<sub>32</sub>O<sub>2</sub>), CAS number 57-10-3, is commonly referred to as palmitic acid. Shorter-chain fatty acids (e.g., tetradecanoic acid, commonly referred to as myristic acid), longer-chain fatty acids (e.g., icosanoic acid, referred to as arachidic acid), and unsaturated fatty acids (e.g., (9Z)-octadec-9-enoic acid, referred to as oleic acid) are common minority components of stearic acid. Their sum total typically accounts for less than 10 percent of the mixture.

<sup>67</sup> Emery Oleochemicals, “OleoBasics Brochure,” August 2016.

<sup>68</sup> “Tallow” here describes any type of rendered animal fat; beef tallow contains 15–24 percent octadecanoic acid. Octadecanoic acid concentration ranges from 0 percent in cottonseed oil to 5 percent in palm oil (see USITC, *Industry and Trade Summary: Fatty Chemicals*, 1994).

Stearic acid is produced through the acid hydrolysis of triglycerides.<sup>69</sup> In this process, a strong acid breaks apart the triglycerides into their constituent fatty acids and glycerin. The fatty acids are purified through a crystallization step that separates the acids into solid and liquid fractions. The solid component is the stearic acid, while the liquid is oleic acid, or olein, given its high concentration of oleic acid.<sup>70</sup> Further purification of the product through solvent separation, hydrogenation, and distillation depends on the purity required for a grade or a customer.<sup>71</sup>

Stearic acid is used both as a chemical in its own right and as an upstream input to other products across a wide variety of industries. Major chemical derivatives of stearic acid include esters, amines, and metal salts. Examples of uses of these chemicals include lubricants, plastics, and textiles, for esters; surfactants and oil field operations, for amines; and plastics processing and greases, for metal salts.<sup>72</sup> Stearic acid can also be used as an additive in cosmetics and personal care products; a surfactant in cleaning materials; or a solvent in industrial processes like rubber vulcanization.<sup>73</sup>

## Profile of U.S. Industry and Market, 2014–18

In 2018, there were between 7 and 11 major U.S. producers of stearic acid, with production facilities in Illinois, Massachusetts, New Jersey, Ohio, Tennessee, and Texas.<sup>74</sup> Companies are typically small to medium-sized chemical producers. Approximately four of these firms appear to produce stearic acid primarily for sale in the open market.<sup>75</sup> Other firms produce stearic acid for internal consumption, with minimal excess product sold to other companies.<sup>76</sup>

A number of downstream chemical industries use stearic acid as an input in the production of finished goods. In most cases, it is used to produce other chemicals. No single downstream industry or end use accounts for the majority of stearic acid consumption. For example, as one use, petitioner American eChem produces calcium stearate, a metal salt, which is a primary input in plastics manufacturing.<sup>77</sup>

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<sup>69</sup> Bagby et al., “Carboxylic Acids,” October 17, 2013.

<sup>70</sup> Oleic acid is not classified in HTS subheading 3823.11.00. Grades of oleic acid produced alongside stearic acid are typically classified in HTS subheading 3823.12.00.

<sup>71</sup> Industry representatives, telephone interviews by USITC staff, June 18 and July 1, 2019; Bagby et al., “Carboxylic Acids,” October 17, 2013; Wu et al., “Fats and Oils Industry Overview,” November 15, 2018, 24–25.

<sup>72</sup> Calcium and zinc stearate encompassed the bulk of stearic acid salts use (69 and 21 percent, respectively) in those applications, with other salts like magnesium stearate (pharmaceuticals) and lithium stearate (lithium greases) making up the remainder. Up to 102,000 metric tons of metal stearates were used in 2017, primarily in plastic manufacturing (65.2 percent), rubber manufacturing (15.7 percent), and paper products (9.8 percent). Wu et al., “Natural Fatty Acids,” June 29, 2018, 27, 35–36, 40.

<sup>73</sup> Wu et al., “Natural Fatty Acids,” June 29, 2018, 41–42.

<sup>74</sup> IHS Markit, Directory of Chemical Producers database (accessed June 17, 2019).

<sup>75</sup> Wu et al., “Natural Fatty Acids,” June 29, 2018, 19–22.

<sup>76</sup> Industry representative, telephone interview by USITC staff, June 19, 2019; Wu et al., “Natural Fatty Acids,” June 29, 2018, 9.

<sup>77</sup> American eChem, “Metal Soaps (Calcium and Zinc Stearate)” (accessed June 17, 2019).



U.S. food and cosmetics manufacturers reportedly use plant oil-derived stearic acid more often than tallow-derived stearic acid.<sup>78</sup> They use the latter less often because of historical concerns about the transmission of disease or the preference of consumers for plant-based instead of animal-based products.<sup>79</sup> While plant-derived stearic acid is also used by nonfood and cosmetics consumers, tallow continues to be the primary source of stearic acid used in processes like metal stearate manufacturing.<sup>80</sup>

Manufacturers of stearic acid derivatives use both Indonesian and U.S. stearic acid, sometimes ad hoc, when logistical issues arise and additional materials are needed on short notice.<sup>81</sup> In addition to buying decisions based on the type of raw material (feedstock) used, price is often the primary determinant for consumer decisions on whether to use imported or domestic product, due to the substitutability and equivalent quality of imported and domestic product.<sup>82</sup> U.S. consumption of imported stearic acid has been increasing in part because of greater price competitiveness of the product from Indonesia, a major global supplier (see “GSP Imports, 2018” below).<sup>83</sup> In addition, domestic production of stearic acid has not recovered to prerecession levels (i.e., pre-2007).<sup>84</sup>

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<sup>78</sup> Industry representatives, telephone interviews by USITC staff, June 13 and 18, 2019.

<sup>79</sup> Some manufacturers offer kosher- and halal-certified stearic acid, which appear to be primarily derived from plant oils, for certain consumers. Twin Rivers Technologies, “Kosher Product Offerings” (accessed July 9, 2019); industry representatives, telephone interviews by USITC staff, June 13 and 18, 2019; Wu et al., “Natural Fatty Acids,” June 29, 2018, 15, 18.

<sup>80</sup> Metal stearates are salts formed by the reaction between a metal hydroxide and stearic acid. For example, the reaction between stearic acid and sodium hydroxide yields sodium stearate. Wu et al., “Natural Fatty Acids,” June 29, 2018, 35. Industry representatives, telephone interviews by USITC staff, June 13 and June 18, 2019.

<sup>81</sup> U.S. product can be delivered more rapidly due to a shorter supply chain. Industry representatives, telephone interviews by USITC staff, June 13, 18, and 20, and July 1, 2019.

<sup>82</sup> The iodine values, acid numbers, saponification number, and titer of domestic and imported stearic acid are advertised as holding similar ranges. Iodine value is a measure of unsaturated fatty acids in the stearic acid mixture. Moisture content refers to the amount of material that is volatile under test conditions prescribed by various standards. Acid number is the quantity of sodium hydroxide required to neutralize one gram of stearic acid. The saponification number is the quantity of sodium hydroxide required to saponify, or turn into soap, one gram of stearic acid. Titer is the melting point of the stearic acid and is a measure of the saturated fat content. Baldwin and Wittcoff, “The Relationship of Use of Fatty Acids to their Properties and to Analytical Methods,” 1955, 134–135; Shen, “Indonesian Palm Oil Companies,” September 4, 2014; Indonesia Investments, “Palm Oil,” June 26, 2017; industry representatives, telephone interviews by USITC staff, June 13, 18, and 20, and July 1, 2019; Baerlocher, “Stearic Acid” (accessed May 8, 2019); Emery Oleochemicals, “OleoBasics Brochure,” August 2016.; Kraton Corporation, “Sylfat Products” (accessed May 9, 2019); Penta Manufacturing Company, “Catalog Search” (accessed May 9, 2019); PMC Biogenix, “Fatty Acids” (accessed May 9, 2019); Twin Rivers Technologies, “Stearic Fatty Acids” (accessed May 9, 2019); Ecogreen Oleochemicals, “Specialities for Lubricant Applications” n.d.; PT Cisadane Raya Chemicals, “Products—Stearic Acid,” (accessed May 8, 2019); Permata Hijau Group, “PALMATA Fatty Acid Specifications”.

<sup>83</sup> Domestic production across all fatty acids grew by 165,000 metric tons (17 percent) from 2009 to 2017 after declining 261,000 metric tons (21 percent) from 2007 to 2009. Imports across all fatty acids grew by 224,000 metric tons (149 percent) across all fatty acids from 2009 to 2017 after declining by 59 metric tons (28 percent) from 2007 to 2009. Wu et al., “Natural Fatty Acids,” June 29, 2018, 9, 26, 30; industry representatives, telephone interviews by USITC staff, June 18–19, 2019; USITC DataWeb/USDOC, HTS subheading 3823.11.00 (accessed June 12, 2019).

<sup>84</sup> The recession lasted from December 2007 until June 2009. Rich, “The Great Recession,” November 22, 2013 (accessed August 5, 2019).

In part, domestic production has lagged because U.S. fatty acid manufacturers, including those of stearic acid, have seen increased competition for two key raw materials, tallow and soybean oil, due to U.S. tax credits encouraging production of biodiesel.<sup>85</sup> However, demand for stearic acid follows the overall state of the economy and therefore rose during 2014–18.<sup>86</sup>

**Table 3.2** Stearic acid (HTS subheading 3823.11.00): U.S. producers, employment, production, trade, consumption, and capacity utilization, 2014–18

Item	2014	2015	2016	2017	2018
Producers (number)	(a)	(a)	(a)	(a)	7–11
Employment (1,000 employees)	(a)	(a)	(a)	(a)	(a)
Production (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Exports (1,000 \$)	53,076	37,988	38,561	49,201	36,518
Imports (1,000 \$)	26,113	26,313	26,010	26,846	27,462
Consumption (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Import-to-consumption ratio (%)	(a)	(a)	(a)	(a)	(a)
Capacity utilization (%)	(a)	(a)	(a)	(a)	(b)

Sources: Trade data compiled from official statistics from the U.S. Department of Commerce. Number of firms estimated from Wu et al., “Natural Fatty Acids,” June 29, 2018, 19–20, and IHS Markit, Directory of Chemical Producers database (accessed June 17, 2019). Capacity utilization estimated by interviewed sources: industry representatives, telephone interviews by USITC staff, June 18–19, 2019.

Notes: U.S. manufacturers report employing [\* \* \*] persons each, across the entire firm, yielding total employment between [\* \* \*]. Total yearly U.S. production is estimated by manufacturers to be [\* \* \*] metric tons, which, with 29,000 metric tons of imports and 33,000 metric tons of exports in 2018, yields a consumption of [\* \* \*] metric tons and an import-to-consumption ratio of [\* \* \*] on a quantity basis. Industry representatives, telephone interviews by USITC staff, June 18–19 and July 1, 2019.

<sup>a</sup> Not available.

<sup>b</sup> Not available. Capacity utilization varied among firms, and a subset of industry sources reported values ranging from [\* \* \*] percent in 2018.

## Like or Directly Competitive U.S. Product Assessment

The Commission identified U.S. production of stearic acid during 2016–18 that the Commission advises was like or directly competitive with articles classified in HTS subheading 3823.11.00. In assessing whether the domestically produced articles were like or directly competitive with the stearic acid produced in Indonesia, the Commission considered the definitions of those terms set out in chapter 1, and in particular the physical properties of the articles produced in the United States and in Indonesia, the manufacturing processes, the product uses, the marketing channels of distribution, and the customs treatment of the product. Stearic acid produced in the United States and Indonesia had similar physical properties, was made using the same manufacturing processes, was used in the same end-use

<sup>85</sup> Biodiesel production uses the same raw material inputs (i.e., tallow and plant oils) as stearic acid, but uses a different process, and the two commodities are not substitutable. U.S. biodiesel tax credits expired at the end of 2017, but legislation has been introduced to renew and extend them. The price of stearic acid is directly tied to the cost of tallow. Current prices are from U.S. Department of Energy, “Biodiesel Mixture Excise Tax Credit” (accessed June 26, 2019); Biodiesel Tax Credit Extension Act, H.R. 2089, 116th Congress (2019); industry representative, telephone interview by USITC staff, June 19, 2019; Wu et al., “Natural Fatty Acids,” June 29, 2018, 15, 45; Wu et al., “Fats and Oils Industry Overview,” November 15, 2018, 62–63, 73, 80.

<sup>86</sup> Wu et al., “Natural Fatty Acids,” June 29, 2018, 26 and 30; industry representative, telephone interview by USITC staff, June 19, 2019.

applications, shared the same marketing channels, and would have been expected to have received the same customs treatment.

## Physical Properties

Stearic acid produced in the United States and Indonesia had highly similar physical properties for product within the same grades, and the United States and Indonesia each produced a range of grades with varying and overlapping compositions.<sup>87</sup> Other factors—including iodine value, moisture content, acid number, saponification number, and titer—were similar in U.S. and Indonesian stearic acid grades.<sup>88</sup> Reportedly, imported and domestically sourced stearic acid of the same grade were of the same quality.<sup>89</sup>

## Manufacturing Process

Producers of stearic acid in the United States and in Indonesia used the same manufacturing methods (as described in “Descriptions and Uses”) during 2016–18, although with varying feedstock. Indonesian producers relied on palm and coconut oils derived from local plantations for feedstock, while U.S. manufacturers used tallow and soybeans due to their domestic availability.<sup>90</sup>

## Product Uses

Stearic acid produced in both the United States and Indonesia during 2016–18 had the same end uses and was substitutable, and some domestic manufacturers of derivative products reported using stearic acid from both sources.<sup>91</sup> Regardless of the country of origin, if stearic acid meets the customer’s specifications, it is interchangeable for that end uses. For example, U.S. food and cosmetics

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<sup>87</sup> Baerlocher, “Stearic Acid” (accessed May 8, 2019); Emery Oleochemicals, “OleoBasics Brochure,” August 2016.; Kraton Corporation, “Sylfat Products” (accessed May 9, 2019); Penta Manufacturing Company, “Catalog Search” (accessed May 9, 2019); PMC Biogenix, “Fatty Acids” (accessed May 9, 2019); Twin Rivers Technologies, “Stearic Fatty Acids” (accessed May 9, 2019); Ecogreen Oleochemicals, “Specialities for Lubricant Applications,” n.d.; PT Cisadane Raya Chemicals, “Products—Stearic Acid,” (accessed May 8, 2019); Permata Hijau Group, “PALMATA Fatty Acid Specifications,” (accessed May 9, 2019).

<sup>88</sup> Baldwin and Wittcoff, “The Relationship of Use of Fatty Acids to their Properties and to Analytical Methods,” 1955, 134–35.

<sup>89</sup> Industry representatives, telephone interviews by USITC staff, June 13, 18, and 20, and July 1, 2019; Baldwin and Wittcoff, “The Relationship of Use of Fatty Acids to their Properties and to Analytical Methods,” 1955, 134–135; Baerlocher, “Stearic Acid” (accessed May 8, 2019); Emery Oleochemicals, “OleoBasics Brochure,” August 2016.; Kraton Corporation, “Sylfat Products” (accessed May 9, 2019); Penta Manufacturing Company, “Catalog Search” (accessed May 9, 2019); PMC Biogenix, “Fatty Acids” (accessed May 9, 2019); Twin Rivers Technologies, “Stearic Fatty Acids” (accessed May 9, 2019); Ecogreen Oleochemicals, “Specialities for Lubricant Applications” n.d.; PT Cisadane Raya Chemicals, “Products—Stearic Acid,” (accessed May 8, 2019); Permata Hijau Group, “PALMATA Fatty Acid Specifications”.

<sup>90</sup> Wu et al., “Natural Fatty Acids,” June 29, 2018, 19.

<sup>91</sup> Wu et al., “Natural Fatty Acids,” June 29, 2018, 111; industry representatives, telephone interviews by USITC staff, June 13 and 18, 2019.

manufacturers use plant oil-derived stearic acid, which was produced in both Indonesia and the United States.<sup>92</sup>

## Marketing Channels

U.S. producers sold their product directly to consumers or to distributors, who then resold it domestically.<sup>93</sup> [\* \* \*].<sup>94</sup>

## Customs Treatment

Stearic acid produced in the United States during 2016–18 would likely have received the same customs treatment as stearic acid produced in Indonesia if it had been imported (i.e., imported under HTS 3823.11.00).

## GSP Imports, 2018

U.S. imports from GSP-eligible countries accounted for 51.1 percent of total U.S. imports of stearic acid in 2018. India, Indonesia, and Thailand were the only GSP-eligible suppliers during 2018, and Indonesia accounted for 98.2 percent of total GSP-eligible imports of stearic acid. The majority of Indonesian stearic acid production was exported.<sup>95</sup>

The value of U.S. imports of stearic acid from Indonesia rose from \$6.1 million in 2014 to \$13.8 million in 2018, an increase of 127 percent over the period. Imports from Indonesia as a share of total U.S. imports increased from 23 percent in 2014 to 50 percent in 2018. The overall supply of palm oil feedstock increased in Indonesia because of increased demand for vegetable oils, particularly in developing countries.<sup>96</sup> Moreover, Indonesian tax policy favors exports of downstream oleochemicals like stearic acid instead of raw materials, incentivizing domestic refining and leading to an increase in production. According to industry sources, expanded Indonesian supply has made Indonesian imports of stearic acid more price competitive in the U.S. market.<sup>97</sup>

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<sup>92</sup> Industry representatives, telephone interviews by USITC staff, June 13 and 18, 2019.

<sup>93</sup> For example, PMC Biogenix sells stearic acid to consumers and to distributors. PMC Biogenix, “Fatty Acids” (accessed July 9, 2019); Cary Company, “Fatty Acids” (accessed July 9, 2019).

<sup>94</sup> Industry representative, telephone interview by USITC staff, June 18, 2019.

<sup>95</sup> Wu et al., “Natural Fatty Acids,” June 29, 2018, 25.

<sup>96</sup> Berry and Weaver, *Exporting Ecolabels*, July 2018, 22–23.

<sup>97</sup> There are approximately 13 Indonesian fatty acid producers with a combined capacity (including products other than stearic acid) of 3.1 million metric tons per year. Wu et al., “Natural Fatty Acids,” June 29, 2018, 109; Shen, “Indonesian Palm Oil Companies Rushing,” September 4, 2014; Indonesia Investments, “Palm Oil,” June 26, 2017; industry representatives, telephone interviews by USITC staff, June 13, 18, and 20, and July 1, 2019.

**Table 3.3** Stearic acid (HTS subheading 3823.11.00): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, 2018

Item	Imports (1,000 \$)	% of total imports	% of GSP imports	% of U.S. consumption
Total U.S. imports from all sources	27,462	100.0	(a)	(b)
U.S. imports from GSP-eligible countries:				
Indonesia	13,774	50.2	98.2	(b)
India	212	0.8	1.5	(b)
Thailand	34	0.1	0.2	(b)
Total from GSP-eligible countries	14,020	51.1	100.0	(b)

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

<sup>a</sup> Not applicable.

<sup>b</sup> Not available.

## U.S. Imports and Exports

The value of U.S. stearic acid imports remained steady during the previous five years, despite an increase in quantity of 6,100 metric tons (26 percent).<sup>98</sup> Indonesia was the largest source of total U.S. stearic acid imports (accounting for 50 percent), followed by Malaysia (42 percent) and Germany (4 percent). U.S. imports from Malaysia declined from \$18.2 million (70 percent share) in 2014 to \$11.6 million (42 percent share) in 2018. On a value-per-quantity basis, Malaysian and Indonesian imports were similar in 2014 (\$1.1 million per thousand metric tons). However, since 2015, import unit values have been lower for Indonesian imports of stearic acid than for imports from Malaysia (an average of 17 percent lower).<sup>99</sup>

Total Indonesian exports to the world increased from average yearly exports of 162,000 metric tons before 2009 to 474,000 metric tons after 2012.<sup>100</sup> This reflects increased production for export markets, as domestic consumption of fatty acids was relatively small in Indonesia.

U.S. exports of stearic acid exceeded imports in both value and quantity.<sup>101</sup> Despite a decline in value, export quantities have remained consistent since 2014, primarily supplying demand in other North American markets.<sup>102</sup>

<sup>98</sup> USITC DataWeb/USDOC, HTS subheading 3823.11.00 (accessed June 12, 2019).

<sup>99</sup> USITC DataWeb/USDOC, HTS subheading 3823.11.00 (accessed June 12, 2019).

<sup>100</sup> Wu et al., "Natural Fatty Acids," June 29, 2018, 112.

<sup>101</sup> In 2018, the United States imported 29,400 metric tons of stearic acid and exported 32,500 metric tons. USITC DataWeb/USDOC, HTS subheading 3823.11.00 (accessed June 12, 2019).

<sup>102</sup> USITC DataWeb/USDOC, HTS subheading 3823.11.00 (accessed June 12, 2019).

**Table 3.4** Stearic acid (HTS subheading 3823.11.00): U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Imports from all sources:					
Indonesia	6,063	8,781	10,326	11,679	13,774
Malaysia	18,219	14,957	12,820	12,819	11,565
Germany	1,137	1,294	903	1,086	1,036
Sweden	457	624	892	107	336
India	33	37	36	78	212
Belgium	35	307	651	908	176
China	13	89	31	59	170
Italy	68	36	76	44	87
France	0	0	0	4	37
Thailand	0	0	0	0	34
All other	88	188	275	61	35
<b>Total</b>	<b>26,113</b>	<b>26,313</b>	<b>26,010</b>	<b>26,846</b>	<b>27,462</b>
Imports from GSP-eligible countries:					
Indonesia	6,063	8,781	10,326	11,679	13,774
India	33	37	36	78	212
Thailand	0	0	0	0	34
<b>Total</b>	<b>6,096</b>	<b>8,818</b>	<b>10,363</b>	<b>11,757</b>	<b>14,020</b>

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

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

**Table 3.5** Stearic acid (Schedule B 3823.11.0000): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Canada <sup>a</sup>	21,527	16,899	17,959	22,251	17,525
Mexico <sup>a</sup>	30,074	19,016	18,731	23,897	16,829
Costa Rica <sup>a</sup>	24	18	331	454	435
Greece	0	17	97	302	416
Colombia <sup>a</sup>	337	241	157	271	203
Belgium	0	36	129	103	143
Singapore <sup>a</sup>	13	28	4	130	124
Spain	177	121	138	156	121
India	18	28	34	37	108
Netherlands	61	444	44	198	80
All other	845	1,140	936	1,402	533
<b>Total</b>	<b>53,076</b>	<b>37,988</b>	<b>38,561</b>	<b>49,201</b>	<b>36,518</b>

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

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

<sup>a</sup> Free trade agreement partner.

## **Positions of Interested Parties**

Petitioners: Petitions were filed by American eChem, Inc., and the government of Indonesia.

No other statements were received by the Commission in support of, or in opposition to, the proposed modification to GSP considered for this subheading.

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### Chapter 3: Competitive Need Limitation (CNL) Waiver: Stearic Acid (Indonesia)

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# Chapter 4

## Competitive Need Limitation (CNL)

### Waiver: Spectacle Lenses of Materials Other Than Glass, Unmounted (Thailand)<sup>103</sup>

**Table 4.1** Plastic spectacle lenses

HTS provision	Short description	Col. 1 rate of duty as of January 1, 2019
9001.50.00	Spectacle lenses of materials other than glass, unmounted	2.0 %

<sup>a</sup> Data for 2018 trade show that Thailand exceeded the percentage-based competitive need limitation (CNL) for Harmonized Tariff Schedule (HTS) subheading 9001.50.00 in 2018.

## Description and Uses

The products classified in HTS subheading 9001.50.00 are unmounted spectacle lenses made from materials other than glass. However, because plastics are the principal input, accounting for virtually all of the lenses classified in this tariff subheading,<sup>104</sup> this chapter refers to the goods in this category as “plastic spectacle lenses.” The plastic spectacle lenses under consideration are lens blanks and unfinished lenses, which are critical components in the eventual production of prescription eyeglasses.<sup>105</sup> In the United States, the Food and Drug Administration regulates plastic spectacle lenses as a Class I medical device.<sup>106</sup>

The most common types of plastic spectacle lenses are (1) standard, mid-index (i.e., light, slim lenses, compatible with most prescriptions); (2) high-index (i.e., light-weight lenses for stronger prescriptions); and (3) polycarbonate plastics (i.e., shatterproof lenses).<sup>107</sup> Composite lenses, which include a combination of polycarbonate, high-index plastics, and other optical materials, generate the largest

<sup>103</sup> The petition was filed by the government of Thailand with the U.S. Trade Representative (USTR). The petition requested a waiver of the competitive need limitation (CNL) for HTS subheading 9001.50.00 under the provisions of GSP for Thailand.

<sup>104</sup> The Vision Council (TVC), written submission to the U.S. Trade Representative, April 17, 2019, 2.

<sup>105</sup> These imports are distinct from finished lenses or eyeglasses that are imported under different tariff product classifications and are sold directly to consumers.

<sup>106</sup> In the United States, medical devices are categorized into three classes based on the relative risks that they pose to patients. Class I devices are the least invasive and present the lowest health and safety risk to consumers.

<sup>107</sup> TVC, “Lens Materials” (accessed June 15, 2019). In 2019, sales of plastic lenses made of these materials are expected to make up about 97 percent of industry revenue; lenses made of glass represent the remainder.

IBISWorld, *Glasses and Contact Lens Manufacturing in the United States*, February 2019, 14.

revenues for the industry. Lightweight, versatile, and durable, plastic spectacle lenses can accommodate a variety of protective treatments (e.g., to make them nonglare, photochromic, and scratch-resistant).<sup>108</sup>

Except for polycarbonate lenses, all plastic spectacle lenses are constructed using a molding process. First, the lens designer estimates the appropriate curvatures to achieve the desired optical quality and selects the appropriate mold. Single-vision lenses have a single curvature, while progressive or aspheric lenses require multiple curvatures. Next, liquid plastic (i.e., monomers and polymers) is added to the molding. The next step in the process is surfacing the lens—cutting deeper spherical curves for a stronger prescription and flatter curves for a weaker prescription. The lenses are then shaped and edged to conform to the eyeglass frame. After shaping and edging, various coatings can be applied to the lenses to achieve different attributes, such as ultraviolet filters, antireflective coatings, antiglare coatings, etc.<sup>109</sup>

## Profile of U.S. Industry and Market, 2014–18

The U.S. industry for plastic spectacle lenses is composed of designers, manufacturers, and distributors. There are three confirmed manufacturers of plastic spectacle lenses in the United States,<sup>110</sup> located in Massachusetts, Minnesota, and Utah.<sup>111</sup>

U.S. imports of plastic spectacle lenses assume two forms: (1) semi-finished blanks, which are finished on one surface and resemble hockey pucks, and (2) finished uncut lenses, which have been processed into a finished form and are ready for edging (i.e., shaping the rims of the lenses to fit a frame) and mounting into a frame.<sup>112</sup>

The widespread need for corrective lenses ensures relatively consistent demand; people of all ages are consumers. The presence of a relatively elderly population and the extent of health care coverage heavily influence demand. The U.S. population aged 65 and older is currently estimated to comprise 16 percent of the total population, and its share is expected to rise to 23 percent by 2060.<sup>113</sup> This age group—which is prone to glaucoma, cataracts, and macular degeneration—constitutes the fastest-growing consumer segment for plastic spectacle lenses.<sup>114</sup>

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<sup>108</sup> TVC, “Lens Materials” (accessed June 15, 2019); IBISWorld, *Glasses and Contact Lens Manufacturing in the United States*. February 2019, 14.

<sup>109</sup> Shamir, “How Lenses Are Made,” 2019.

<sup>110</sup> Industry representative, email to USITC staff, June 19, 2019; ThomasNet, “Plastic Lenses Suppliers” (accessed June 24, 2019); USITC, hearing transcript, July 3, 2019, 99 (testimony of Greg Chavez, The Vision Council).

<sup>111</sup> ThomasNet, “Optical Lenses Suppliers” (accessed May 14, 2019); IBISWorld, *Glasses and Contact Lens Manufacturing*. February 2019, 19; Manta, “Lenses Manufacturers in the United States” (accessed July 10, 2019).

<sup>112</sup> USITC, hearing transcript, July 3, 2019, 97 (testimony of Greg Chavez, The Vision Council).

<sup>113</sup> Population Reference Bureau, “Fact Sheet: Aging in the United States,” July 15, 2019.

<sup>114</sup> Age-related eye diseases and conditions include cataracts, glaucoma, diabetic eye disease, low vision and macular degeneration. NIH, NEI, “Age-Related Eye Diseases” (accessed July 5, 2019); IBISWorld, *Glasses and Contact Lens Manufacturing*, February 2019, 6.

U.S. imports and domestic production are not likely to be in direct competition with each other; domestic production is largely composed of specialty lenses (e.g., spectacle lenses for specific activities like driving or playing sports), while imports are most likely non-specialty lenses.

**Table 4.2** Plastic spectacle lenses (HTS subheading 9001.50.00): U.S. producers, employment, production, trade, consumption, and capacity utilization, 2014–18

Item	2014	2015	2016	2017	2018
Producers (number)	(a)	3	3	3	3
Employment (1,000 employees)	(a)	(a)	(a)	(a)	(b)
Production (1,000 \$)	(a)	(a)	(a)	(a)	[* * *]
Exports (1,000 \$)	192,159	196,826	156,226	165,561	156,177
Imports (1,000 \$)	629,853	670,438	698,060	793,681	861,646
Consumption (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Import-to-consumption ratio (%)	(a)	(a)	(a)	(a)	(a)
Capacity utilization (%)	(a)	(a)	(a)	(a)	(a)

Sources: Trade data compiled from official statistics from the U.S. Department of Commerce. Industry and production figures for 2018 from industry representative, email message to USITC staff, July 9, 2019.

<sup>a</sup> Not available.

<sup>b</sup> [\* \* \*]

## Like or Directly Competitive U.S. Product Assessment

The Commission identified domestic production of plastic spectacle lenses during 2016–18 that were like or directly competitive with articles classified in HTS subheading 9001.50.00. HTS subheading 9001.50.00 covers all unmounted plastic spectacle lenses made from materials other than glass, whether they are specialty or non-specialty lenses. Plastic spectacle lenses produced in the United States were primarily used for specialty applications (e.g., polarized prescription lenses, prescription lenses for sunglasses, and low-vision lenses), and the Commission did not identify any U.S. production of non-specialty lenses during 2016–18. By contrast, although the Commission is unaware of any production of specialty plastic spectacle lenses in Thailand, the United States does import standard, non-specialty plastic spectacle lenses from Thailand under HTS subheading 9001.50.00.

To determine whether the domestically produced articles were like or directly competitive with the plastic spectacle lenses produced in Thailand, the Commission considered the definitions of those terms set out in chapter 1, and in particular the physical properties of the articles produced in the United States and in Thailand, manufacturing processes, product uses, marketing channels of distribution, and customs treatments. Plastic spectacle lenses produced in both the United States and Thailand had similar physical properties and were made using similar manufacturing processes. However, as noted above, while the lenses were intended for the same general end-use application—prescription lenses—U.S. lenses were primarily used for specialty applications, while Thai lenses were used in non-specialty prescription glasses. Therefore, plastic spectacle lenses produced in Thailand during 2016–18 and those produced in the United States may have had limited overlapping uses. Plastic spectacle lenses produced in both the United States and Thailand shared the same marketing channels, and would have been expected to have received the same customs treatment.

## Physical Properties

Plastic spectacle lenses produced in the United States and in Thailand during 2016–18 had similar physical properties. Plastic spectacle lenses, regardless of the country of origin, are lenses made of plastic (as described above in “Descriptions and Uses”). Manufacturers in both the United States and Thailand produced plastic spectacle lenses in the form of semifinished blanks and finished uncut lenses.<sup>115</sup> However, the plastic spectacle lenses produced in the United States were reportedly specialty lenses (e.g., polarized prescription lenses, prescription lenses for sunglasses, and low-vision lenses), while the Thai lenses were primarily for use in standard non-specialty prescription glasses—that is, for multi-purpose uses (as described above in “Profile of U.S. Industry and Market, 2014–18”). Therefore, there were likely some minor differences in the physical properties of the lenses based on intended end uses.

## Manufacturing Process

Information available to the Commission indicates that the manufacturing process for plastic spectacle lenses produced during 2016–18 in Thailand was the same as or similar to that used in the United States. Plastic spectacle lenses, regardless of country of origin, are manufactured using a molding process that shapes liquid plastic into lenses (as described above in “Descriptions and Uses”).<sup>116</sup>

## Product Uses

Plastic spectacle lenses produced in both the United States and Thailand have the same general uses. They were “worn by a patient in a spectacle frame to provide refractive corrections in accordance with a prescription for the patient.”<sup>117</sup> As stated above, however, plastic spectacle lenses produced in the United States were reportedly specialty lenses (e.g., polarized prescription lenses, prescription lenses for sunglasses, and low-vision lenses) and served certain end uses that were not served by spectacle lenses produced in Thailand.<sup>118</sup> Nonetheless, there may have been some overlap in end uses between spectacle lenses produced in the United States and those produced in Thailand.

## Marketing Channels

Plastic spectacle lenses produced in the United States and in Thailand were largely sold and marketed through the same channels: retail chains and mass merchandisers; independent eye care professionals; and online retail or mail orders.<sup>119</sup>

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<sup>115</sup> USITC, hearing transcript, July 3, 2019, 97–99 (testimony of Greg Chavez, The Vision Council).

<sup>116</sup> Shamir, “How Lenses Are Made,” 2019.

<sup>117</sup> Government of Thailand, Royal Thai Embassy, written submission to the U.S. Trade Representative, April 16, 2019, 6.

<sup>118</sup> USITC, hearing transcript, July 3, 2019, 136–137 (testimony of Greg Chavez, The Vision Council).

<sup>119</sup> IBISWorld, *Glasses and Contact Lens Manufacturing*, February 2019, 16.

## Customs Treatment

Plastic spectacle lenses produced in the United States during 2016–18 would likely have received the same customs treatment as those produced in Thailand if they had been imported (i.e., imported under HTS 9001.50.00).

## GSP Imports, 2018

More than one-third (33.7 percent) of U.S. imports of plastic spectacle lenses are from GSP-eligible countries, and two-thirds of these imports are from Thailand. During 2014–18, Thailand supplied between 20.7 and 22.6 percent of all U.S. imports of plastic spectacle lenses and between 59.4 and 67.2 percent of all such imports from GSP-eligible countries. In 2018, Thailand accounted for 17 percent of the value of global exports of spectacle lenses and was the leading exporter, followed by China, Mexico, Germany, and the United States.<sup>120</sup>

Other GSP-eligible countries that supply imports of the products in this HTS subheading to the United States include the Philippines, Indonesia, India, and Brazil. With the exception of the Philippines, which accounted for roughly one-quarter of U.S. imports of these products under GSP, none of these other countries supplied a substantial share of plastic spectacle lenses to the United States under the program during 2018.

The Thai plastic spectacle lens industry consists of local small and medium-sized enterprises (SMEs) as well as foreign firms that manufacture in Thailand, such as Essilor (France), Rodenstock (Germany), and Solarlens (Italy).<sup>121</sup> Despite receiving GSP duty-free treatment for these lenses, the Thai industry has been losing U.S. market share to Mexico, China, and France. According to the Thai government, this is largely due to Thailand’s relatively high cost of production caused by minimum wages that have increased twice since 2013 in Thailand.<sup>122</sup> According to the Thai government, the largest beneficiaries of duty-free treatment for plastic spectacle lenses under the provisions of GSP in Thailand are SMEs. This is largely because these producers lack economies of scale and would otherwise be unable to price their products competitively without the benefit of the program.<sup>123</sup>

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<sup>120</sup> IHS Markit, Global Trade Atlas database (accessed July 15, 2019).

<sup>121</sup> Bangkok Companies, “Thailand Optical Companies” (accessed July 24, 2019).

<sup>122</sup> Government of Thailand, Royal Thai Embassy, written submission to USTR, April 16, 2019, 7.

<sup>123</sup> Government of Thailand, Royal Thai Embassy, written submission to USTR, April 16, 2019, 4.

**Table 4.3** Plastic spectacle lenses (HTS subheading 9001.50.00): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, 2018

Item	Imports (1,000\$)	% of total imports	% of GSP imports	% of U.S. consumption
Total U.S. imports from all sources	861,646	100.0	(a)	(b)
U.S. imports from GSP-eligible countries:				
Thailand	194,882	22.6	67.2	(b)
Philippines	69,214	8.0	23.9	(b)
Indonesia	24,536	2.8	8.5	(b)
India	682	(c)	0.2	(b)
Brazil	649	(c)	0.2	(b)
All other	40	(d)	(d)	(b)
Total from GSP-eligible countries	290,003	33.7	100.0	(b)

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

<sup>a</sup> Not applicable.

<sup>b</sup> Not available.

<sup>c</sup> Less than 0.5 percent.

<sup>d</sup> Less than 0.05 percent.

## U.S. Imports and Exports

Total U.S. imports of plastic spectacle lenses rose by 36.8 percent (\$232 million) from 2014 to 2018. These increases are largely attributable to three countries: Mexico, Thailand, and China. During this five-year period, nearly 30 percent of all U.S. imports came from Mexico, which was the leading supplier of plastic spectacle lenses to the United States.

U.S. exports of plastic spectacle lenses declined by 18.7 percent (\$36 million) to \$156 million from 2014 to 2018. Notably, U.S. exports in 2018 were almost identical to those recorded in 2016. Mexico and Canada collectively accounted for 47.9 percent (\$75 million) of the total in 2018, reflecting the duty-free access afforded under the North American Free Trade Agreement (NAFTA). While this share has remained relatively consistent since 2014, U.S. plastic lens exports to Mexico have largely displaced those to Canada. This likely reflects the growing eyeglass market in Mexico—driven, in part, by the aging Mexican population—and the expansion of retail outlets to sell these goods.<sup>124</sup> At the same time, leading global lens manufacturers, such as Essilor, have invested in Mexico and facilitated U.S. exports of plastic spectacle lenses for final spectacle production.<sup>125</sup>

<sup>124</sup> EuroMonitor International, *Eyewear in Mexico*, July 2018.

<sup>125</sup> Essilor, “Essilor’s Manufacturing Plant in Mexico,” November 12, 2015.



**Table 4.4** Plastic spectacle lenses (HTS subheading 9001.50.00): U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Imports from all sources:					
Mexico <sup>a</sup>	174,036	178,591	189,066	199,939	226,024
Thailand	130,417	147,709	155,126	173,221	194,882
China	81,879	97,227	100,856	147,694	170,837
Philippines	64,138	66,900	63,026	66,661	69,214
France	24,992	29,719	28,109	30,656	41,346
Japan	42,039	37,520	39,671	44,936	41,110
Ireland	28,337	30,595	35,928	39,598	27,643
Indonesia	21,589	22,093	18,517	24,029	24,536
Taiwan	22,044	19,530	19,906	23,172	21,278
Israel <sup>a</sup>	13,600	14,784	18,066	16,221	16,042
All other	26,782	25,770	29,791	27,554	28,733
Total	629,853	670,438	698,060	793,681	861,646
Imports from GSP-eligible countries:					
Thailand	130,417	147,709	155,126	173,221	194,882
Philippines	64,138	66,900	63,026	66,661	69,214
Indonesia	21,589	22,093	18,517	24,029	24,536
India	2,828	1,213	241	334	682
Brazil	462	344	317	367	649
Mongolia	0	0	0	0	19
Pakistan	101	163	255	158	13
Cocos (Keeling) Islands <sup>b</sup>	0	0	0	0	8
Turkey	0	4	0	2	0
Mauritius	0	0	0	3	0
All other	0	2	12	0	0
Total	219,534	238,428	237,494	264,775	290,003

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

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

<sup>a</sup> Free trade agreement partner.

<sup>b</sup> Cocos (Keeling) Islands is an Australian territory in the Indian Ocean.

**Table 4.5** Plastic spectacle lenses (Schedule B 9001.50.0000): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Mexico <sup>a</sup>	27,467	25,572	40,875	50,270	51,644
Canada <sup>a</sup>	60,028	65,502	36,668	32,330	23,184
Thailand	24,588	29,342	29,481	30,856	22,012
Hong Kong	3,160	6,105	2,938	1,674	12,159
China	10,866	9,035	6,642	8,199	8,856
Colombia <sup>a</sup>	12,865	9,453	6,158	3,529	6,980
Australia <sup>a</sup>	5,583	6,408	3,388	1,857	3,570
Brazil	9,954	8,268	2,901	2,146	3,360
Italy	1,752	2,038	2,332	4,186	3,095
Philippines	8	27	601	4,249	3,019
All other	35,888	35,077	24,243	26,264	18,299
Total	192,159	196,826	156,226	165,561	156,177

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

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

<sup>a</sup> Free trade agreement partner.

## Positions of Interested Parties

Petitioner: A petition was filed by the Government of Thailand. Thailand also filed a written submission, and a representative of the government of Thailand appeared at the Commission hearing.

Petitioner: A petition was filed by The Vision Council. The Vision Council also filed a written submission, and a representative of The Vision Council appeared at the Commission hearing.

No other statements were received by the Commission in support of, or in opposition to, the proposed modification to GSP considered for this subheading.

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# Chapter 5

## Redesignation: Fresh Cut Orchids (Thailand)<sup>126</sup>

**Table 5.1** Orchids, fresh cut

HTS provision	Short description	Col. 1 rate of duty as of January 1, 2019
0603.13.00 <sup>a</sup>	Orchids, fresh cut	6.4 percent

<sup>a</sup> Harmonized Tariff Schedule (HTS) subheading 0603.13.00 is currently eligible for duty-free treatment for certain beneficiary developing countries under the provisions of GSP. Thailand lost eligibility for duty-free treatment for HTS subheading 0603.13.00 in 2018, after it exceeded the competitive need limitation (CNL) percent threshold in 2017 and was denied a de minimis waiver. For further discussion of de minimis waivers see page 4.

## Description and Uses

The products classified in HTS subheading 0603.13.00 are fresh cut orchids. This HTS subheading consists exclusively of orchids and contains every species of orchid. Orchids are flowering plants that make up the Orchidaceae family and, with about 28,000 known species, make up one of the world's two largest families of flowering plants. Orchids are known for their bright and distinctive flowers. Most orchids share a certain set of features: a cluster of flowers on each stem; bilaterally symmetric flowers; a modified petal that forms a labellum, or lip; and fused stamens and carpels. Although most orchids are grown in tropical or subtropical areas, they are native to many different environments and can be found on every continent except Antarctica.<sup>127</sup>

Cut orchids are used for a variety of decorative or ornamental purposes. They can be sold either as stems, with multiple blooms attached, or as loose blooms that have been cut from their stems, depending on the preference of the producer or buyer and the quality of every bloom on the stem. Cut orchid stems can be used in floral arrangements. Loose blooms are used in leis and garlands, food decoration, and for other decorative purposes.<sup>128</sup>

<sup>126</sup> Petitions were filed with the U.S. Trade Representative (USTR) by Leis by Ron, Inc., the government of Thailand, and ECAN RMS Co, Ltd. The petition requested the redesignation of HTS subheading 0603.13.00 under the provisions of GSP for Thailand.

<sup>127</sup> U.S. Fish and Wildlife Service, International Affairs, "Orchids," <https://www.fws.gov/international/plants/orchids.html> (accessed July 9, 2019).

<sup>128</sup> A lei is a garland of flowers worn on special occasions, such as graduations and weddings, or given as a gift of greeting or welcoming. Leis can be made using a variety of flowers, but most often are made with orchids, Arabian jasmine, plumeria, carnations, and stephanotis. Merriam-Webster Dictionary, <https://www.merriam-webster.com/dictionary/lei>; Flower Leis, "What Is a Lei and Hawaiian Symbolism," <https://www.flowerleis.com/info/what-is-a-lei-symbolism/>; Hawaiian Lei Company, "The Aloha Tradition," <https://www.hawaiianleicompany.com/LeiTradition.aspx> (all accessed July 9, 2019).

## Profile of U.S. Industry and Market, 2014–18

U.S. orchid production consists of both potted orchids and cut orchid stems. Most U.S. growers produce potted orchids, predominantly belonging to the genera *Phalaenopsis*, *Dendrobium*, and *Cymbidium*.<sup>129</sup> Because production of orchids for stems requires more time and labor than potted orchids, fewer U.S. producers specialize in only cut stems. Some producers that sell cut stems or loose blooms in addition to potted plants primarily sell them as a secondary product line. They take these cuts from lower-quality stems and blooms or from mature potted plants that have not been sold.<sup>130</sup>

In 2018, there were at least 17 U.S. producers of cut orchids with \$100,000 or more in sales, for a combined wholesale value of over \$6 million (not including production in Hawaii).<sup>131</sup> California is the largest producer of fresh cut orchids, and Hawaii has been the only other significant producer. In Hawaii in 2017, there were at least 21 farms each with over \$10,000 in sales of cut orchid stems, and the total value of cut orchid stems produced was over \$2 million.<sup>132</sup> However, the 2018 Kilauea volcano eruption caused damage to a region responsible for 70 percent of Hawaii's orchid production.<sup>133</sup> By one estimate, the eruption destroyed nearly 50 percent of Hawaiian orchid production.<sup>134</sup> Growers on the island are still in the process of relocating and replanting.<sup>135</sup>

The main U.S. consumers of fresh cut orchids are florists, who use the stems in arrangements and the blooms in leis and garlands or as decorations to sell directly to consumers. Florists can buy the cut orchids directly from the producer or from a flower wholesaler. Customers, such as large hotel chains, that want to order large quantities and make regular purchases may also buy directly from the producer. While cut orchid stems and blooms are increasingly used in decorative applications, demand is sensitive to price changes, as other types of flowers can be substituted for orchids in floral arrangements, leis, garlands, and decorations. Although U.S. consumption fell somewhat from 2014 to 2018, imports gained a larger share of the U.S. market during this period: U.S. production of cut orchids declined, while imports rose steadily. Imports of cut dendrobium increased at a higher rate than those of other orchids

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<sup>129</sup> Industry representatives, telephone interviews by USITC staff, June 28, 2019.

<sup>130</sup> Industry representative, telephone interview by USITC staff, June 28, 2019.

<sup>131</sup> Hawaii was not included in USDA's 2019 *Commercial Floriculture Survey*, but the Hawaii Department of Agriculture publishes an annual summary of Hawaii floriculture and nursery products, in cooperation with NASS. See USDA, NASS, "Hawaii Floriculture and Nursery Products," July 24, 2018. Information on producers from five states was withheld to avoid disclosing data for individual operations. USDA, NASS, "Floriculture Crops 2018 Summary," May 23, 2019, 79.

<sup>132</sup> The most recent year for which information is available, USDA, NASS, "Hawaii Floriculture and Nursery Products," July 24, 2018, 5.

<sup>133</sup> Some industry observers estimate that the eruption partially or totally destroyed the plants of 80 percent of producers, either through fire or sulfur dioxide gas, Wu, "Kilauea Eruption Downsizes One of the Big Island's Largest Orchid Growers," July 9, 2018; industry representative, telephone interview by USITC staff, June 28, 2019.

<sup>134</sup> Chadwick, "Orchids: Hawaiian Farms Buried in Lava," August 25, 2018.

<sup>135</sup> Industry representative, telephone interview by USITC staff, June 28, 2019.

to make up more than half of all U.S. cut orchid imports during 2014–18.<sup>136</sup> Almost all U.S. imports of cut dendrobium are from Thailand, where, as industry representatives note, the costs of production are so much lower than in the United States that U.S. producers cannot compete with Thai growers.<sup>137</sup>

**Table 5.2** Fresh cut orchids (HTS subheading 0603.13.00): U.S. producers, employment, production, trade, consumption, and capacity utilization, 2014–18

Item	2014	2015	2016	2017	2018
Producers (number)	34	29	(a)	(a)	17 <sup>(b)</sup>
Employment (1,000 employees)	(a)	(a)	(a)	(a)	(a)
Production (1,000 \$)	16,546	7,983	(a)	(a)	6,146 <sup>(b)</sup>
Exports (1,000 \$)	467	270	72	111	129
Imports (1,000 \$)	12,841	13,188	16,708	17,896	18,820
Consumption (1,000 \$)	28,920	20,901	(a)	(a)	24,838
Import-to-consumption ratio (%)	44.4	63.1	(a)	(a)	75.8
Capacity utilization (%)	(a)	(a)	(a)	(a)	(a)

Source: Number of producers and production data are from USDA, NASS, “Floriculture Crops: 2015 Summary” and “Floriculture Crops: 2018 Summary.” Trade data compiled from official statistics from the U.S. Department of Commerce. Consumption calculated from value of production and net imports.

<sup>a</sup> Not available.

<sup>b</sup> This does not include data for orchid production in Hawaii because those data were not available.

## Like or Directly Competitive U.S. Product Assessment

The Commission identified U.S. production of fresh cut orchids during 2016–18 that the Commission advises was like or directly competitive with articles classified in HTS subheading 0603.13.00. In assessing whether the domestically produced articles were like or directly competitive with the fresh cut orchids produced in Thailand, the Commission considered the definitions of those terms set out in chapter 1, and in particular the physical properties of the articles produced in the United States and in Thailand, the manufacturing processes, the product uses, the marketing channels of distribution, and the customs treatment of the product. Fresh cut orchids produced in both the United States and Thailand had the same physical properties, were made (grown) using similar manufacturing (production) processes, were used in the same end-use applications, shared the same marketing channels, and would have been expected to have received the same customs treatment.

### Physical Properties

Fresh cut orchids produced in the United States had the same physical properties as fresh cut orchids produced in Thailand (as discussed above in “Descriptions and Uses”). Both U.S. and Thai producers grew a number of varieties of fresh cut orchids, including cymbidium and dendrobium; however, the bulk of U.S imports of Thai orchids were dendrobium orchids. Although there are thousands of

<sup>136</sup> U.S. imports of cut dendrobium orchids (HTS 0603.13.0050) increased by nearly 55 percent during 2014–18, while imports of all other types of orchids (0603.13.0060) increased by 38 percent over the same period. USDOC/USITC DataWeb (accessed May 22, 2019).

<sup>137</sup> Industry representatives, telephone interviews by USITC staff, June 28, 2019.

dendrobium hybrid species, most types of dendrobium that are grown for cut flowers are considered to be interchangeable, with similar flower shape, size, and shelf life.<sup>138</sup>

## Manufacturing Process

Producers of fresh cut orchids in the United States and Thailand used virtually the same manufacturing (production) process. In Thailand, because of the warm climate, much of the commercially grown orchids were grown under shade cloth, although some greenhouse use has been reported.<sup>139</sup> Orchids in the United States were generally grown in temperature-controlled greenhouses, although shade houses have been used for some production in Hawaii.<sup>140</sup> Individual producers in each country rooted the plants in a variety of growing media, such as moss or bark.<sup>141</sup> While potted orchids can be sold within one to three years of planting, orchids used for cut flowers take at least three and up to five years—as long as seven years, by some estimates—to produce enough spikes that they can be sold as cut stems.<sup>142</sup> Estimates for the lifespan of orchid plants used for cut flowers vary by species and climate, with some producers reporting 5–7 years of production, and others reporting as long as 12–15 years.<sup>143</sup>

Regardless of the country of origin, the process of cutting stems and blooms was reportedly labor intensive. Once a stem is cut, for example, a plastic tube of water must be attached to the stem. The stem is then covered in a plastic sleeve and packed in a box. For stems and loose blooms, ice packs may be used in the boxes, and they are then either sold locally or transported by refrigerated trucks and airplanes.<sup>144</sup> The lifespan of cut orchid stems and blooms varies according to species, but cut blooms can last from 7 to 12 days under ideal conditions. Stems last for over a week and may last up to several weeks.<sup>145</sup>

## Product Uses

Fresh cut orchids produced in both the United States and Thailand had the same end uses. Cut orchid stems were used in flower arrangements, in bouquets, and for decorative purposes, while orchid blooms were used in leis and garlands, as plate or cake decorations, or for other decorative purposes. U.S. and

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<sup>138</sup> Industry representatives, telephone interviews by USITC staff, July 25, 2019 and August 5, 2019.

<sup>139</sup> Vellekoop, “Thai Growers Expanding Cut Orchid Acreage,” May 8, 2015; Thammasiri, “Current Status of Orchid Production in Thailand,” 2015.

<sup>140</sup> Callis, “Kilauea Eruption—One Year Later,” May 3, 2019.

<sup>141</sup> ECAN RMS, “Petition for Redesignation with Respect to Imports of Cut Orchids (HTSUS 0603.13.00) from Thailand,” April 17, 2019.

<sup>142</sup> Vellekoop, “Breeding of Thai Orchids Remains Difficult,” May 18, 2015; Kuack, “Crop Diversification Helps Ensure Westland Orchids,” September 12, 2017. Industry representative, telephone interview by USITC staff, June 28, 2019.

<sup>143</sup> Kuack, “Crop Diversification Helps Ensure Westland Orchids,” September 12, 2017. Industry representative, telephone interview by USITC staff, June 28, 2019.

<sup>144</sup> Vellekoop, “Thai Growers Expanding Cut Orchid Acreage,” May 8, 2015; industry representative, telephone interview by USITC staff, June 28, 2019.

<sup>145</sup> Industry representatives, telephone interviews by USITC staff, July 25, 2019, and August 5, 2019.



Thai dendrobium orchids, while different subspecies, both have large and durable blooms that serve the same end uses.<sup>146</sup>

## Marketing Channels

Fresh cut orchids from both the United States and Thailand were generally sold to flower wholesalers or florists, and stores can buy them directly from the producers.<sup>147</sup> Some producers may also have sold directly to hotels, for use in floral arrangements and food and other decorations.<sup>148</sup> In the United States, small commercial growers of cut flowers, including orchids, sell fresh cut orchids in bouquets from their greenhouses directly to consumers.

## Customs Treatment

Fresh cut orchids produced in the United States during 2016–18 would likely have received the same customs treatment as the fresh cut orchids produced in Thailand if they had been imported (i.e., imported under HTS 0603.13.00).

## GSP Imports, 2018

U.S. imports from GSP-eligible countries accounted for 59.3 percent of the value of total U.S. imports of fresh cut orchids, which reached \$18.8 million in 2018 (table 5.3). Thailand supplied 99.3 percent (\$11.2 million) of imports from GSP-eligible countries in 2018. Thailand is a major producer of fresh cut orchids and was the largest supplier of fresh cut orchids to the United States during the period 2014–18.

**Table 5.3** Fresh cut orchids (HTS provision 0603.13.00): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, 2018

Item	Imports (1,000 \$)	% of total		% of U.S. consumption
		imports	% of GSP imports	
Total U.S. imports from all sources	18,820	100.0	(a)	75.8
U.S. Imports from GSP-eligible countries:				
Thailand	11,165	59.3	99.3	45.0
South Africa	78	0.4	0.7	0.3
Ecuador	3	(b)	(b)	(b)
Total from GSP-eligible countries	11,246	59.8	100.0	45.3

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

<sup>a</sup> Not applicable.

<sup>b</sup> Less than 0.05 percent.

<sup>146</sup> Industry representatives, telephone interviews by USITC staff, July 25, 2019 and August 5, 2019.

<sup>147</sup> Morrissey, “The Orchid Connections,” October 18, 2015.

<sup>148</sup> Vellekoop, “New Company Boosts Thai Flower Exports,” February 20, 2018.

## U.S. Imports and Exports

The United States imported \$18.8 million of fresh cut orchids in 2018 (table 5.4). This is the highest level these imports reached during the period 2014–18. Total imports increased each year, and were nearly 50 percent higher in 2018 than in 2014. Thailand accounted for the largest share of U.S. imports, an average of 57 percent from 2014 to 2018. Until November 2018, U.S. imports of cut orchids from Thailand entered free of duty under GSP.<sup>149</sup> The Netherlands was the second-largest source of U.S. imports of cut orchids, accounting for an average of 31 percent of these imports over the five-year period. Imports from both sources rose during the period; imports from Thailand increased by 64 percent from 2014 to 2018, while those from the Netherlands increased by 34 percent. Imports from these two sources accounted for 90 percent of total U.S. imports of fresh cut orchids in 2018. The types of orchids supplied by these two sources differed, however, as imports from Thailand are predominantly dendrobium orchids, while those from the Netherlands are predominantly other types.<sup>150</sup>

U.S. exports of fresh cut orchids are reported under U.S. Census Bureau’s Schedule B number 0603.13.0000, which consists solely of fresh cut orchids. U.S. exports of cut orchids declined 73 percent from 2014, although they have increased from the five-year low in 2016 (table 5.5). U.S. cut orchids are mainly shipped to Canada, which accounted for nearly 90 percent of U.S. exports in 2018. U.S. exports to Canada are eligible for duty-free treatment under the North American Free Trade Agreement (NAFTA).

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<sup>149</sup> Fresh cut orchids from Thailand exceeded the competitive need limitation (CNL) threshold in 2017 and were not granted de minimis waivers in 2018, and thus lost GSP eligibility in November 2018. A de minimis waiver may be granted when total U.S. imports under a particular HTS provision from all countries are below a threshold set by law (de minimis level); whether such waivers are granted is at the President’s discretion. The de minimis level was \$23.5 million in 2017 and \$24.0 million in 2018.

<sup>150</sup> There are two HTS 10-digit statistical reporting numbers used in importing fresh cut orchids: 0603.13.0050 (dendrobium orchids) and 0603.13.0060 (other orchids). USDOC/DataWeb (accessed May 22, 2019); USITC, *Harmonized Tariff Schedule*, version 2019, revision 9.

**Table 5.4** Orchids (HTS subheading 0603.13.00): U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)

	2014	2015	2016	2017	2018
Imports from all sources:					
Thailand	6,794	7,220	9,656	10,866	11,165
Netherlands	4,351	4,230	4,921	5,015	5,852
Vietnam	236	358	527	454	575
New Zealand	583	475	751	794	458
Malaysia	528	561	556	438	353
Taiwan	282	308	232	237	283
South Africa	20	0	12	8	78
Guatemala <sup>a</sup>	0	0	0	11	24
Canada <sup>a</sup>	9	8	15	38	18
South Korea <sup>a</sup>	0	0	0	5	10
All other	38	28	39	31	5
<b>Total</b>	<b>12,841</b>	<b>13,188</b>	<b>16,708</b>	<b>17,896</b>	<b>18,820</b>
Imports from GSP-eligible countries:					
Thailand	6,794	7,220	9,656	10,866	11,165
South Africa	20	0	12	8	78
Ecuador	3	0	0	3	3
Kenya	4	0	3	0	0
<b>Total</b>	<b>6,821</b>	<b>7,220</b>	<b>9,670</b>	<b>10,876</b>	<b>11,246</b>

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

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

<sup>a</sup> Free trade agreement partner.

**Table 5.5** Orchids (Schedule B 0603.13.0000): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Canada <sup>a</sup>	417	180	52	80	115
Bahamas	42	34	3	19	11
Barbados	0	0	0	0	3
Dominican Republic <sup>a</sup>	0	40	0	0	0
Saint Lucia	0	0	0	3	0
Singapore <sup>a</sup>	0	0	17	0	0
Japan	0	16	0	0	0
Australia <sup>a</sup>	0	0	0	7	0
Panama <sup>a</sup>	3	0	0	3	0
Jamaica	5	0	0	0	0
<b>Total</b>	<b>467</b>	<b>270</b>	<b>72</b>	<b>111</b>	<b>129</b>

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

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

<sup>a</sup> Free trade agreement partner.

## **Positions of Interested Parties**

Petitioners: The petition was filed by Leis by Ron, the government of Thailand, and ECAN RMS Co, Ltd.

No other statements were received by the Commission in support of, or in opposition to, the proposed modification to GSP considered for this subheading.

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# Chapter 6

## Redesignation: Bamboo Plywood (Indonesia)<sup>151</sup>

**Table 6.1** Bamboo plywood

HTS provision	Short description	Col. 1 rate of duty as of January 1, 2019
4412.10.05 <sup>a</sup>	Plywood, of bamboo	8.0 %

<sup>a</sup> Harmonized Tariff Schedule (HTS) provision 4412.10.05 is currently eligible for duty-free treatment for certain beneficiary developing countries under the provisions of GSP.

### Description and Uses

The products classified in HTS subheading 4412.10.05 are plywood of bamboo (“bamboo plywood”). Plywood is a composite panel product that is bonded together with adhesives. Raw bamboo is one of many material options for manufacturing plywood; other material options include wood species (bamboo is a grass, not a wood) and composite products such as medium-density fiberboard (MDF).

A product is considered to be “of bamboo” if U.S. Customs and Border Protection finds that it has the essential character of bamboo in relation to its entire composition. The “face” ply veneer—the outermost veneer that is on the side of the product that is visible in most uses—dictates the plywood’s external appearance. The plywood classified in HTS subheading 4412.10.05 generally has at least one face ply of bamboo. All other items in its construction are not necessarily bamboo; they can also be composed of wood materials and composite products, such as MDF or particleboard.

Whatever their face ply, plywood panels have at least three plies of veneer (very thin sheets, usually of wood, but also of bamboo or other materials). The panels have an odd number of plies. Most plywood has an inner core layer surrounded by a variable number of internal plies, which are all covered by the outermost external veneer plies (i.e., the face and back). The plies are stacked and pressed/glued together under high heat, with the grain of each ply oriented in different directions to give strength and stability to the finished product.<sup>152</sup>

Bamboo plywood is used exclusively in interior and nonstructural applications for decorative and aesthetic purposes in products such as furniture, kitchen cabinets, architectural woodwork, and wall paneling.

<sup>151</sup> The petition was filed with the U.S. Trade Representative (USTR) by the government of Indonesia. The petition requested the redesignation of HTS subheading 4412.10.05 under the provisions of GSP for Indonesia.

<sup>152</sup> Internal veneer plies with grains layered in different directions to provide stability are also referred to as crossband veneers. Layers using other wood products, such as MDF, can be added to at least three consecutive crossband layers.

## Profile of U.S. Industry and Market, 2014–18

Approximately five companies produce bamboo plywood in the United States, each in very small amounts.<sup>153</sup> These companies primarily produce wood plywood; bamboo plywood makes up a small share of their total plywood production.<sup>154</sup> The states of Georgia, Florida, Texas, California, and Alabama export the most bamboo plywood, veneered panels, and similar laminated wood.<sup>155</sup>

The market for bamboo plywood is primarily driven by residential construction and remodeling, particularly for furniture, kitchen cabinets, architectural woodwork, and wall paneling. Consumers have a range of plywood options, including tropical and temperate hardwood plywood and softwood plywood. Consumers make choices based on a variety of factors from decorative and aesthetic considerations to price. In addition, bamboo plywood is reportedly purchased by certain consumers for its purported environmental sustainability.<sup>156</sup>

U.S. imports of bamboo plywood and U.S.-produced bamboo plywood are used interchangeably and compete directly with each other. The majority of U.S. demand for bamboo plywood is estimated to be filled by imports because of limited domestic supply.<sup>157</sup>

**Table 6.2** Plywood of bamboo (HTS provision 4412.10.05): U.S. producers, employment, production, trade, consumption, and capacity utilization, 2014–18

Item	2014	2015	2016	2017	2018
Producers (number)	(a)	(a)	(a)	(a)	(a)
Employment (1,000 employees)	(a)	(a)	(a)	(a)	(a)
Production (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Exports (1,000 \$)	(b)	(b)	(b)	(b)	(b)
Imports (1,000 \$)	5,909	6,162	5,231	3,036	6,874
Consumption (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Import-to-consumption ratio (%)	(a)	(a)	(a)	(a)	(a)
Capacity utilization (%)	(a)	(a)	(a)	(a)	(a)

Source: Trade data compiled from official statistics from the U.S. Department of Commerce.

<sup>a</sup> Not available.

<sup>b</sup> Not available. Export data comparable to U.S. import data for HTS subheading 4412.10.0000 are not available because the Schedule B number includes additional products.

<sup>153</sup> USITC, hearing transcript, July 2, 2019, 71 (testimony of Kip Howlett, Decorative Hardwoods Association). Industry representative, telephone interview by USITC staff, July 3, 2019.

<sup>154</sup> Industry representative, telephone interview by USITC staff, July 3, 2019.

<sup>155</sup> Export data is available for this broader basket of commodities only under Schedule B number 4412.10.0000. IHS Markit. Global Trade Atlas database (accessed July 15, 2019).

<sup>156</sup> Industry representative, telephone interview by USITC staff, July 3, 2019.

<sup>157</sup> Industry representative, telephone interview by USITC staff, July 3, 2019.



## Like or Directly Competitive U.S. Product Assessment

The Commission identified U.S. production of bamboo plywood during 2016–18 that the Commission advises was like or directly competitive with articles classified in HTS subheading 4412.10.05. In assessing whether the domestically produced articles were like or directly competitive with the bamboo plywood produced in Indonesia, the Commission considered the definitions of those terms set out in chapter 1, and in particular the physical properties of the articles produced in the United States and in Indonesia, the manufacturing processes, the product uses, the marketing channels of distribution, and the customs treatment of the product. The bamboo plywood produced in the United States and in Indonesia during 2016–18 had the same physical properties, was made using the same or similar manufacturing processes, was used in some of the same end-use applications, shared the same marketing channels, and would have been expected to have received the same customs treatment.

### Physical Properties

Bamboo plywood produced in the United States and Indonesia had essentially the same physical properties during 2016–18. Bamboo plywood, regardless of the country of origin, consisted of at least three plies of veneer. The product produced in the United States and Indonesia shared the same face veneer input (raw bamboo) and had the same or similar appearance when installed, although different types of bamboo plywood might use different types of wood or MDF for the interior ply layers, as well as different glues and surface treatments.

### Manufacturing Process

Information available to the Commission indicates that the manufacturing process for bamboo plywood produced during 2016–18 in Indonesia was the same as or similar to that used in the United States. Bamboo plywood, regardless of country of origin, is manufactured by gluing plies of veneer one atop the other (as described above in “Descriptions and Uses”).

### Product Uses

Domestically produced bamboo plywood and bamboo plywood from Indonesia were used for the same purposes during 2016–18. In particular, the products have been and continue to be used for decorative and aesthetic reasons in products such as furniture, kitchen cabinets, architectural woodwork, and wall paneling. Thus, the product was used for interior and nonstructural applications.

### Marketing Channels

Bamboo plywood produced in the United States and bamboo plywood from Indonesia were sold through similar marketing channels during 2016–18. U.S. producers sold plywood, including bamboo

plywood, mainly to distributors.<sup>158</sup> Importers sold a large share of plywood, including Indonesian bamboo plywood, to distributors, and they also sold significant amounts directly to retailers such as big box stores.<sup>159</sup>

## Customs Treatment

Bamboo plywood produced in the United States during 2016–18 would likely have received the same customs treatment as bamboo plywood produced in Indonesia if it had been imported (i.e., imported under HTS 4412.10.05).

## GSP Imports, 2018

In 2018, there were no GSP imports into the United States (table 6.3). In the past, there have been imports from GSP beneficiaries, such as India, Thailand, Indonesia, and the Philippines (table 6.4). The Indonesian bamboo plywood industry was small by global standards and accounted for less than 1 percent of the value of total global exports of plywood, veneered panels, and similar laminated wood, of bamboo (Schedule B number 4412.10.00).<sup>160</sup>

**Table 6.3** Bamboo plywood (HTS provision 4412.10.05): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, 2018

Item	Imports (1,000 \$)	% of total imports	% of GSP imports	% of U.S. consumption
Total U.S. imports from all sources	6,874	100.0	(a)	(b)
U.S. imports from GSP-eligible countries:				
Total from GSP-eligible countries	0	0	(a)	(a)

<sup>a</sup> Not applicable.

<sup>b</sup> Not available.

## U.S. Imports and Exports

The United States imported \$6.9 million of bamboo plywood in 2018 (table 6.4). This represents a 126.5 percent increase from 2017, when imports were at their lowest level of the five-year period 2014–18. China accounted for 97.3 percent of total U.S. imports in 2018 (table 6.4).<sup>161</sup> U.S. imports from Indonesia have been erratic. While there were no U.S. imports of bamboo plywood from Indonesia in 2014 or 2018, in 2016 imports from Indonesia peaked and accounted for 13.8 percent of imports of bamboo plywood from all countries.

U.S. exports of bamboo plywood are reported under Schedule B number 4412.10.0000, which also includes veneered panels and similar laminated wood. The subject products classified in HTS subheading 4412.10.05 only include bamboo plywood and does not include veneered panels and similar laminated

<sup>158</sup> Industry representative, telephone interview by USITC staff, July 3, 2019.

<sup>159</sup> USITC, *Hardwood Plywood from China*, December 2017, II-2.

<sup>160</sup> IHS Markit, Global Trade Atlas database (accessed July 15, 2019). Schedule B number 4412.10.00 includes additional products besides those classified in HTS subheading 4412.10.05, and therefore is not completely representative of Indonesia's industry for bamboo plywood.

<sup>161</sup> No other country accounted for more than 0.01 percent of total U.S. imports in 2018.

wood of bamboo; therefore, Schedule B number 4412.10.0000 is a broader category and does not directly correspond to the subject bamboo plywood.

**Table 6.4** Bamboo plywood (HTS subheading 4412.10.05), U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Imports from all sources:					
China	5,756	6,004	4,445	2,618	6,687
Norway	0	0	0	0	65
Netherlands	0	0	0	0	32
Canada <sup>a</sup>	10	6	24	47	24
Germany	0	0	3	0	16
Taiwan	8	7	0	0	13
Mexico <sup>a</sup>	0	0	0	0	10
Greece	0	0	0	4	9
Italy	0	0	0	0	9
Australia <sup>a</sup>	0	0	0	9	8
All other	135	145	758	358	2
<b>Total</b>	<b>5,909</b>	<b>6,162</b>	<b>5,231</b>	<b>3,036</b>	<b>6,874</b>
Imports from GSP-eligible countries:					
India	0	2	0	26	0
Thailand	0	0	0	15	0
Indonesia	0	89	722	49	0
Philippines	10	35	0	0	0
<b>Total</b>	<b>10</b>	<b>126</b>	<b>722</b>	<b>90</b>	<b>0</b>

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

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

<sup>a</sup> Free trade agreement partner.

**Table 6.5** Plywood, veneered panels and similar laminated wood, of bamboo (Schedule B 4412.10.0000): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)

Country	2014	2015	2016	2017	2018
Dominican Republic <sup>a</sup>	21	3	31	673	4,199
Mexico <sup>a</sup>	899	746	1,194	852	2,586
Cayman Islands	454	113	86	2,688	2,056
Canada <sup>a</sup>	1,082	1,279	1,242	1,929	1,824
Haiti	0	0	923	878	1,042
Afghanistan	0	4	362	431	820
China	4	71	69	86	379
Jamaica	0	31	18	571	317
Australia <sup>a</sup>	212	154	96	253	302
Honduras <sup>a</sup>	2,511	257	67	107	250
All other	1,570	1,675	1,752	2,528	1,884
<b>Total</b>	<b>6,752</b>	<b>4,333</b>	<b>5,840</b>	<b>10,997</b>	<b>15,659</b>

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

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

<sup>a</sup> Free trade agreement partner.

## **Positions of Interested Parties**

**Petitioners:** The petition was filed by the government of Indonesia. A representative of the government of Indonesia appeared at the Commission hearing.

No other statements were received by the Commission in support of, or in opposition to, the proposed modification to GSP considered for this subheading.

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# Chapter 7

## Redesignation: Certain Tropical Hardwood Plywood (Indonesia)<sup>162</sup>

**Table 7.1** Certain tropical hardwood plywood

HTS provision	Short description	Col. 1 rate of duty as of January 1, 2019
4412.31.4155 <sup>a</sup>	Certain tropical hardwood plywood (excluding mahogany), not surface covered beyond clear/transparent, panels not exceeding 3.6 mm in thickness but exceeding 1.2 m in width and/or 2.2 m in length	8.0 percent

<sup>a</sup> Goods classified in Harmonized Tariff Schedule (HTS) subheading 4412.31.41 are currently eligible for duty-free treatment for certain beneficiary developing countries under the provisions of GSP. Indonesia lost eligibility for duty-free treatment for HTS subheading 4412.31.40 in 2015, after it exceeded the competitive need limitation (CNL). Starting in 2017, HTS subheading 4412.31.40 was renumbered as HTS subheading 4412.31.41. Statistical reporting number 4412.31.4155 was added to the HTS on July 1, 2018.

### Description and Uses

The products described in HTS statistical reporting number 4412.31.4155 are certain tropical hardwood plywood whose surface is not covered beyond a clear or transparent material, with panels meeting certain measurement parameters. Plywood is a composite wood product containing layers of wood veneer (very thin sheets of wood) and a core of wood material, bonded together with adhesives. The “face” ply veneer—the outermost veneer that is on the side of the product that is visible in most uses—dictates the plywood’s external appearance. Accordingly, the plywood’s type is determined by the species of wood used in the face ply veneer.

The plywood imported under HTS statistical reporting number 4412.31.4155 uses certain tropical hardwood species as the face ply veneer. All other materials in its construction are not necessarily tropical hardwood; the other components can be made of veneers of softwood or temperate hardwood.<sup>163</sup> The core can be made of any of these veneer types or composite products such as medium-density fiberboard (MDF) or particleboard.

Plywood is a wood panel product with at least three plies of wood veneer that are glued under high heat atop one another and oriented such that the grain of each ply runs in a different direction.<sup>164</sup> Plywood panels always have an odd number of plies. Most plywood has an inner core layer surrounded by a

<sup>162</sup> The Recreation Vehicle Industry Association (RVIA) filed a petition with the U.S. Trade Representative (USTR) requesting the redesignation of HTS 4412.31.4155 under the provisions of GSP for Indonesia. The GSP program is administered at the 8-digit HTS subheading level; if redesignation were granted for Indonesia alone on the basis of the 10-digit statistical reporting numbers, one or more new HTS 8-digit subheadings would need to be created to administer this redesignation of GSP benefits.

<sup>163</sup> Hardwood is grown in both temperate and tropical climates.

<sup>164</sup> To produce plywood, moist logs are first either rotary-cut or sliced to make veneers; the resulting veneers are then dried.

variable number of internal plies which are all covered by the outermost external veneer plies (i.e., the face and back). The plies are stacked and pressed/glued together; orienting the grain of each ply in different directions gives strength and stability to the finished product.<sup>165</sup> The design and manufacturing process of plywood makes it resistant to expansion and contraction caused by humidity.<sup>166</sup> The thickness of the panel and the number of plies in the panel depend on the specific product and can affect its end uses.

The tropical hardwood plywood described in HTS 4412.31.4155 falls within specified measurement parameters for length or width as well as thickness. Notably, these products are limited to a maximum thickness of 3.6 mm (about 0.14 inches, or just over 9/64 inches) for the entire panel. The products imported under HTS 4412.31.4155 also exceed 1.2 m in width and/or 2.2 m in length (i.e., 4 feet or more in width and/or 7 feet or more in length).<sup>167</sup>

Products imported under HTS statistical reporting number 4412.31.4155 use certain tropical hardwood species for the face ply and do not obscure the face ply's grain, texture, or markings with a surface covering. The face ply is made from one of a number of different tropical hardwood species, excluding mahogany.<sup>168</sup> These tropical hardwood species are grown in Southeast Asia, Africa, and South America. U.S. producers of tropical hardwood plywood import tropical logs or veneers to make the plywood product. Of the eligible tropical hardwoods, dark red meranti, light red meranti, and white lauan are native to Indonesia and other parts of Southeast Asia.<sup>169</sup> Imports under this statistical reporting number consist of plywood that either has not been surface covered or has been surface covered with only clear or transparent material.<sup>170</sup>

Hardwood plywood is principally used in interior nonstructural applications. This plywood is commonly chosen for decorative and aesthetic reasons, for use in products such as furniture, kitchen cabinets, architectural woodwork, and wall paneling. It is also used in some construction-related applications where structural strength is not a requirement, such as underlayment for a finished flooring product.

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<sup>165</sup> Internal veneer plies with grains layered in different directions to provide stability are also referred to as crossband veneers. Layers using other wood products, such as medium-density fiberboard, can be added to at least three consecutive crossband layers.

<sup>166</sup> Hardwood plywood does not warp, shrink, or swell like lumber and has uniform strength both with and against the visible grain.

<sup>167</sup> Plywood products are commonly available in sheets of 1219 x 1829 mm (4 x 6 feet), 1219 x 2438 mm (4 x 8 feet), and 1219 x 3048 mm (4 x 10 feet), all of which meet the width/length criteria for HTS 4412.31.4155.

<sup>168</sup> The tropical wood species included in HTS subheading 4412.31.41 are dark red meranti, light red meranti, white lauan, sipo, limba, okoumé, obeche, acajou d'Afrique, sapelli, virola, mahogany, palissandre de Para, palissandre de Rio, and palissandre de rose. Tropical hardwood plywood with a face ply of mahogany is described in HTS 4412.31.4140.

<sup>169</sup> "Lauan" and "meranti" are sometimes used interchangeably to refer to both of these types of wood. Lauan has evolved into a broad term commonly used for plywood made of dark red meranti, light red meranti, and white lauan, as well as any type of wood in the *Shorea* genus. It is also frequently called Philippine mahogany, although it is not in the mahogany genera. White lauan is also referred to as white meranti. Wood Database, "White Meranti," <http://www.wood-database.com/white-meranti/> (accessed June 6, 2019).

<sup>170</sup> The term "surface covered" means that one or more of the exterior surfaces of the plywood have been treated with creosote (an oily liquid distilled from coal tar) or other wood preservatives, or with fillers, sealers, waxes, oils, stains, varnishes, paints or enamels, or have been overlaid with paper, fabric, plastics, base metal, or other material.



The specific tropical hardwood plywood imported under HTS statistical reporting number 4412.31.4155 is typically used in applications demanding thin or light materials; its primary use is in recreation vehicles (RVs), but smaller quantities are also used in many other applications (e.g., in watercraft, in manufactured homes, and as the backs and bottoms for cabinets and furniture).<sup>171</sup> The entertainment industry also uses this tropical hardwood plywood to build television and movie sets.<sup>172</sup>

## Profile of U.S. Industry and Market, 2014–18

The United States hardwood plywood industry produces a range of both tropical and temperate hardwood products. The tropical tree species used in tropical hardwood plywood are not grown in the United States. Therefore, U.S. tropical hardwood production depends on imports of either tropical logs or veneers. U.S. production of hardwood plywood mostly consists of plies of temperate wood assembled in thicker panels, but includes a wide range of plywood products of different species and dimensions. U.S. hardwood plywood manufacturers have facilities in a number of states, including Arkansas, Indiana, Mississippi, New York, North Carolina, Oregon, South Carolina, Virginia, Washington, and West Virginia.<sup>173</sup>

U.S. production of tropical hardwood plywood in the preceding three calendar years reportedly included several of the tropical species described in HTS 4412.31.4155.<sup>174</sup> [\* \* \*]<sup>175</sup> Representatives for RVIA and Patrick Industries disputed the claim that U.S. production of tropical hardwood plywood from lauan (including species categorized as meranti) exists, claiming that bans on exporting logs of these tropical species makes it impossible to manufacture the plywood in the United States.<sup>176</sup> Census data do not show any U.S. imports of logs of dark red meranti, light red meranti, or meranti bakau from 2013 to 2018.<sup>177</sup> However, there were U.S. imports of veneer sheets of these tropical species in the preceding three calendar years, including from Indonesia.<sup>178</sup> There were also U.S. exports of tropical hardwood plywood (table 7.8).

The extent of U.S. production of hardwood plywood in thicknesses not exceeding 3.6 mm is unclear. Some U.S. producers offer custom sales of veneers and plywood panels from both tropical and

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<sup>171</sup> USITC, hearing transcript, July 2, 2019, 63 (testimony of Daniel Neumann, counsel to RVIA; Scott Warren, Patrick Industries); industry representative, telephone interview by USITC staff, June 18, 2019.

<sup>172</sup> RVIA, written submission to USITC, July 8, 2019, 2; USITC, hearing transcript, July 2, 2019, 63 (testimony of Daniel Neumann, counsel to RVIA).

<sup>173</sup> USITC, *Hardwood Plywood from China (Final)*, December 2017, III-2.

<sup>174</sup> U.S. industry representative, email message to USITC staff, June 25, 2018; Coalition for Fair Trade in Hardwood Plywood, written submission to USITC, July 8, 2019, appendix A.

<sup>175</sup> [\* \* \*].

<sup>176</sup> These representatives also highlight that the U.S. import data do not show any imports of tropical logs from Southeast Asia. USITC, hearing transcript, July 2, 2019, 16–17, 75 (testimony of Samantha Rocci, RVIA); 26 (testimony of Scott Warren, Patrick Industries).

<sup>177</sup> USITC DataWeb/USDOC, HTS subheading 4403.41.00 (accessed July 11, 2019).

<sup>178</sup> The Census data also show U.S. imports of both logs and veneer sheets of other tropical species. USITC DataWeb/USDOC, HTS subheadings 4408.31.01, 4403.49.00, 4403.49.01, 4408.39.01, and 4408.39.02 (accessed July 11, 2019).

temperate wood species in thicknesses below 3.6 mm, but their standard hardwood plywood products typically start at around 5/32 inches or 1/4 inch thick (or about 4–6 mm thick).<sup>179</sup> [\* \* \*].<sup>180</sup> A representative for the Decorative Hardwoods Association confirmed that two U.S. companies have developed the capability to produce panels thinner than 3.6 mm, but indicated that the companies have not been producing panels that thin because their panels were not price competitive with imports.<sup>181</sup>

Demand for hardwood plywood, including tropical hardwood plywood, depends on the demand for downstream products in which it is used. Different types of hardwood plywood compete with each other in these applications. Many factors influence purchaser decisions on which type of plywood to use, including price, aesthetic preferences of consumers, delivery time, and product characteristics (e.g., weight, strength, flexibility, and thickness). The main end uses that drive demand for hardwood plywood are in industries that generally reflect broader U.S. economic conditions, including new-home construction and home remodeling activity, as well as the RV, aircraft, and boat markets.<sup>182</sup>

Most domestically produced hardwood plywood is sold in thicknesses over 6.5 mm, and the largest end use for domestically produced hardwood plywood is cabinetry.<sup>183</sup> The main end use for hardwood plywood not exceeding 3.6 mm in thickness is in the RV market, specifically in RVs' structure, subfloors, and cabinetry, which is primarily supplied by imports.<sup>184</sup> U.S. RV production was relatively high during 2014–18, with the industry reporting near-record volumes of units shipped.<sup>185</sup>

In some applications, hardwood plywood competes with non-wood products in the marketplace. For example, the U.S. market for hardwood plywood also overlaps with another product, domestically produced thermoplastic composite panels. Hanwha Azdel (Lynchburg, VA), a U.S.-based and Korean owned company, started producing and selling its thermoplastic composite panels to the RV market in 2006 as an alternative to the tropical hardwood plywood from Indonesia. The product was designed as a direct substitute for the plywood used in RV sidewalls and ceilings, allowing RV manufacturers to use the same equipment for installation.<sup>186</sup> Within the RV market, the thermoplastic composite product is often referred to as “Azdel.”

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<sup>179</sup> Coalition for Fair Trade in Hardwood Plywood, written submission to USITC, July 8, 2019, appendix B.

<sup>180</sup> [\* \* \*].

<sup>181</sup> USITC, hearing transcript, July 2, 2019, 44–45 (testimony of Kip Howlett, Decorative Hardwoods Association).

<sup>182</sup> USITC, *Hardwood Plywood from China (Final)*, December 2017, II-15; USITC, *Generalized System of Preferences*, September 2018, 223.

<sup>183</sup> USITC, *Hardwood Plywood from China (Final)*, December 2017, II-14.

<sup>184</sup> USITC, hearing transcript, July 2, 2019, 15 (Samantha Rocci, RVIA).

<sup>185</sup> USITC, hearing transcript, July 2, 2019, 82 (Samantha Rocci, RVIA).

<sup>186</sup> Burgeson, “Longer Lasting Composites,” June 2016.

**Table 7.2** Certain tropical hardwood plywood not exceeding 3.6 mm in thickness but exceeding 1.2 m in width and/or 2.2 m in length (HTS statistical reporting number 4412.31.4155): U.S. producers, employment, production, trade, consumption, and capacity utilization, 2014–18

Item	2014	2015	2016	2017	2018
Producers (number)	(a)	(a)	(a)	(a)	(a)
Employment (1,000 employees)	(a)	(a)	(a)	(a)	(a)
Production (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Exports (1,000 \$)	(b)	(b)	(b)	(b)	(b)
Imports (1,000 \$)	(a)	(a)	(a)	(a)	(c)
Consumption (1,000 \$)	(a)	(a)	(a)	(a)	(a)
Import-to-consumption ratio (percent)	(a)	(a)	(a)	(a)	(a)
Capacity utilization (percent)	(a)	(a)	(a)	(a)	(a)

Source: Trade data compiled from official statistics from the U.S. Department of Commerce.

<sup>a</sup> Not available.

<sup>b</sup> Not available. Export data comparable to U.S. import data for HTS statistical reporting number 4412.31.4155 are not available because the relevant Schedule B number includes additional products.

<sup>c</sup> Not available. Product-specific import data are available only for the last six months of 2018, after HTS 4412.31.4155 became effective on July 1, 2018. U.S. imports during this period totaled \$64 million.

**Table 7.3** U.S. production of unfinished lauan-faced plywood (square feet)

U.S. region	2015	2016	2017	2018
Eastern	[* * *]	[* * *]	[* * *]	[* * *]
Western	[* * *]	[* * *]	[* * *]	[* * *]
Total	[* * *]	[* * *]	[* * *]	[* * *]

Source: HPVA, *Hardwood Stock Panels Annual Statistical Report for 2018*, March 2019, 35.

## Like or Directly Competitive U.S. Product Assessment

The Commission identified U.S. production of hardwood plywood and thermoplastic composite panels during 2016–18 that the Commission advises was like or directly competitive with articles described in HTS statistical reporting number 4412.31.4155. There was U.S. production of both tropical hardwood plywood (using imported tropical logs or veneers) and temperate hardwood plywood with similar properties to the articles provided for in HTS 4412.31.4155. In other investigations, the Commission has considered all hardwood plywood, regardless of the species of the face veneer, to be a single domestic like product.<sup>187</sup> Additionally, the Commission advises that the domestically produced panels made from thermoplastic composite were directly competitive with articles described in HTS statistical reporting number 4412.31.4155.

In assessing whether the domestically produced articles are like or directly competitive with the certain tropical hardwood plywood produced in Indonesia, the Commission considered the definitions of those terms set out in chapter 1, and in particular the physical properties of the articles produced in the

<sup>187</sup> The Commission considered all hardwood plywood as a like and/or directly competitive U.S. product in the 2017 GSP review, 2004 GSP review, and two antidumping/countervailing duty investigations. USITC, *Generalized System of Preferences*, September 2018, 219; USITC, *Advice Concerning Possible Modifications to the U.S. Generalized System of Preferences*, May 2005; USITC, *Hardwood Plywood from China (Final)*, November 2013; USITC, *Hardwood Plywood from China (Final)*, December 2017.

United States and in Indonesia, the manufacturing processes, the product uses, the marketing channels of distribution, and the customs treatment of the product. The hardwood plywood produced in the United States and certain tropical hardwood plywood produced in Indonesia had similar physical properties, were made using similar manufacturing processes, likely shared some niche end-use applications, shared the same marketing channels, and, in some cases, would have received the same customs treatment if imported.

The Commission also considered these factors for the thermoplastic composite produced in the United States and certain tropical hardwood plywood produced in Indonesia. These products had many of the same physical properties but were made using different manufacturing processes. The products shared some identical end-use applications and some of the same marketing channels. However, they would have received different customs treatment.

## Physical Properties

During 2016–18, hardwood plywood produced in the United States and certain tropical hardwood plywood produced in Indonesia had similar physical properties. There were variations in the physical characteristics of the plywood produced in both countries, depending on the materials used, including wood type of the veneers and the glues. The United States produced a wider range of certain hardwood plywood products than Indonesia, which primarily produced these products with an outer veneer of lauan wood. The U.S. industry produced hardwood plywood products using primarily temperate woods such as birch, maple, and poplar, and generally produced thicker plywood products than Indonesia. There was also reportedly small amounts of U.S. production of tropical hardwood plywood over the past three years, including some of the tropical species described in HTS 4412.31.4155.

It should be noted that the exact physical properties of hardwood plywood vary according to its composition. Wood species differ in factors such as weight, ease of machining, finish characteristics, and moisture and insect resistance without coating. Woods also have varying specific gravities.<sup>188</sup> Some tropical hardwoods, for example, have a specific gravity ranging from 0.43 (okoumé) to 0.71 (white lauan), while some temperate hardwoods widely used to make plywood have a specific gravity ranging from 0.42 (poplar) to 0.62 (hard maple).<sup>189</sup> Glue and resin are also important determinants of the plywood's overall weight and physical quality, which includes resistance to moisture.<sup>190</sup> The physical properties of hardwood plywood further vary according to the product thickness; components (the core, internal plies, and face and back plies); and coating (which the customer often specifies).

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<sup>188</sup> Specific gravity (pounds per cubic foot for wood at 12 percent moisture content)—also known as relative density—increases with fiber wall thickness and cell count, along with chemical composition. This measure helps to make comparisons between wood species easier, which can factor into consumer preference. The higher the specific gravity, the harder (denser) the wood.

<sup>189</sup> These ranges for tropical hardwoods and temperate hardwoods reflect the specific gravities for okoumé, sapelli, and white lauan, on one hand, and birch, maple, and poplar, on the other. USITC, *Generalized System of Preferences*, September 2018, 220.

<sup>190</sup> Glues and resins can be heavier than wood or wood fibers. The weight of plywood increases with the amount of glue in the lamination. Generally, the adhesive binding the plies and covering the surface affects the plywood's resistance to moisture more strongly than does the species of wood in the face veneer.

During 2016–18, thermoplastic composite panels produced in the United States and certain tropical plywood produced in Indonesia had many of the same physical properties. Although made of a different, thermoplastic composite material, Azdel’s panel product was made in dimensions consistent with the thickness, width, and length criteria for tropical hardwood plywood imports from Indonesia described in HTS 4412.31.4155.<sup>191</sup> Both products have similar qualities: they are lightweight, flexible but strong, thin, and resistant to moisture. However, Hanwha Azdel representatives state that their product is lighter than wood material, has better insulation value and moisture resistance, and is formaldehyde-free.<sup>192</sup>

On the other hand, RV industry representatives testified that there are some differences in terms of the products’ strength and density, how well their surfaces adhere and fasten to other components, and how easily manufacturers can apply decorative finishes such as wallpaper to them.<sup>193</sup> One RV manufacturer indicated that physical properties such as strength and ability to adhere to other materials can affect the company’s decisions on using the thermoplastic composite rather than the Indonesian tropical hardwood plywood in its designs, stating that the company uses both products “in specific applications where they’re warranted.”<sup>194</sup>

## Manufacturing Process

The manufacturing process for hardwood plywood in the United States and certain tropical hardwood plywood in Indonesia during 2016–18 was essentially the same. All plywood with hardwood face veneers—whether made of tropical or temperate woods—undergoes the same manufacturing process. Tropical hardwood plywood manufactured in the United States uses veneers cut or sliced from imported logs or imported tropical veneers, incorporating the tropical veneers using the same process of layering and binding as used for temperate wood veneers.

The manufacturing process for thermoplastic composite panels in the United States during 2016–18 was different from the manufacturing process for hardwood plywood. Azdel panels are produced in the United States using a blend of polypropylene (a common and versatile plastic) and fiberglass. Unlike hardwood plywood, they are manufactured from synthetic materials and do not have individual plies that must be cut and bound together.

## Product Uses

During 2016–18, domestically produced hardwood plywood and certain tropical hardwood plywood from Indonesia were mostly used in different applications, but likely shared some overlapping niche applications. Domestically produced hardwood plywood that is a quarter-inch thick (6.35 mm) or less

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<sup>191</sup> The thermoplastic composite panels are produced in several standard sizes, including thicknesses of 2.0, 2.7, and 3.4 mm, and are available in customizable widths and lengths; certain tropical plywood from Indonesia is typically 2.7 mm or 3.4 mm thick. USITC, hearing transcript, July 2, 2019, 36–37 (testimony of George Bondurant, Hanwha Azdel); RVIA, Competitive Need Limitation Waiver Request, April 18, 2019, 5.

<sup>192</sup> USITC, hearing transcript, July 2, 2019, 36 (testimony of George Bondurant, Hanwha Azdel).

<sup>193</sup> USITC, hearing transcript, July 2, 2019, 42–43 (testimony of Scott Warren, Patrick Industries), 43–44 (testimony of Daniel Neumann, counsel to RVIA), 46 (testimony of Chad Reece, Winnebago); Coachmen RV, written submission to USITC, July 8, 2019, 1–2.

<sup>194</sup> USITC, hearing transcript, July 2, 2019, 46 (testimony of Chad Reece, Winnebago).

was typically used in a variety of interior nonstructural applications that call for lighter weight and greater flexibility than thicker panels of hardwood plywood possess. These uses included but were not limited to flooring underlayment, wall paneling, millwork, and woodworking projects. Certain tropical hardwood plywood from Indonesia was primarily used in RVs, but also was used in movie sets, in manufactured housing, and in marine applications.<sup>195</sup> While RVs often used lauan plywood imported under HTS 4412.31.4155 in very specific structural applications (including exterior sidewalls and ceiling panels) and interior applications, some non-RV applications may have interchangeably used this plywood with other types of hardwood plywood, including thicker panels of domestically produced hardwood plywood.

The thermoplastic composite panels produced in the United States and certain tropical hardwood plywood from Indonesia shared some identical end uses. Azdel was primarily used in the sidewalls of RVs as a layer sandwiched between the sidewalls' exterior material and insulation. Additionally, some RV manufacturers advertised that they have models containing a second layer of Azdel on the interior side of the insulation.<sup>196</sup> Similarly, Azdel was and continues to be used as a layer in the ceilings of some RV models.<sup>197</sup> In each of these sidewall and ceiling applications, the Azdel product competed directly with certain tropical hardwood plywood from Indonesia described in HTS 4412.31.4155. Azdel panels are specifically marketed as a replacement for the lauan plywood (i.e., tropical hardwood plywood made from dark red meranti, light red meranti, or white lauan) used in these structural RV applications.<sup>198</sup> A representative from Winnebago confirmed that the RV manufacturer has used the Azdel panels produced in the United States to replace certain tropical plywood from Indonesia in some instances.<sup>199</sup> RV models that incorporate Azdel typically still use Indonesian plywood in other applications, particularly in the interior structure of the RV (i.e., the ceilings, floors, and cabinets).<sup>200</sup>

## Marketing Channels

U.S. marketing channels did not notably differ for domestically produced hardwood plywood and certain tropical hardwood plywood imported from Indonesia during 2016–18. Both the U.S. hardwood plywood

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<sup>195</sup> USITC, hearing transcript, July 2, 2019, 63 (testimony of Daniel Neumann, counsel to RVIA; Scott Warren, Patrick Industries).

<sup>196</sup> [\* \* \*] Gulf Stream Coach, "Get the Azdel Advantage from Gulf Stream," <https://www.gulfstreamcoach.com/azdel-advantage> (accessed July 9, 2019); nuCamp RV Blog, "Azdel Interior Walls with Block Foam Installation," March 2, 2017, <https://nucamp.com/blog/azdel-interior-walls-with-block-foam-installation/>.

<sup>197</sup> RVIA states that Azdel's ceiling applications have some limitations, and that the product cannot be used in structural roof applications. RVIA, written submission to USITC, July 8, 2019, 2; Hanwha Azdel, written submission to USITC, July 8, 2019, 8; AZDEL Onboard, "AZDEL Composite Panels," <https://www.azdelonboard.com/> (accessed July 12, 2019).

<sup>198</sup> AZDEL Onboard, "Water and Wood Don't Mix," <https://www.azdelonboard.com/> (accessed June 10, 2019).

<sup>199</sup> USITC, hearing transcript, July 2, 2019, 79 (testimony of Chad Reece, Winnebago). A representative for RVIA also confirmed that lauan has been traditionally used in both exterior and interior applications, and that Azdel can also be used in exterior applications. A representative for Coachmen similarly confirmed that it uses Azdel for "limited applications in the exterior walls." USITC, hearing transcript, July 2, 2019, 80–81 (testimony of Sam Rocci, RVIA); Coachmen RV, written submission to USITC, July 8, 2019, 1.

<sup>200</sup> USITC, hearing transcript, July 2, 2019, 22 (testimony of Chad Reece, Winnebago); Coachmen RV, written submission to USITC, July 8, 2019, 1–2.

and certain tropical hardwood plywood from Indonesia were usually sold through wholesalers or directly to original equipment manufacturers (OEMs), such as RV manufacturers. Big box stores such as Lowe's and Home Depot also sold tropical hardwood plywood from both the United States and Indonesia, but typically sold panels that are 5.2 mm or thicker.<sup>201</sup>

Thermoplastic composite panels (Azdel) produced in the United States shared some of the same marketing channels as certain tropical hardwood plywood from Indonesia during 2016–18, but the Indonesian product had a wider variety of sales channels. Both products were sold through wholesale distributors; the thermoplastic composite was sold through two different distributors to the RV industry. Both products were also sold directly to OEMs, although Azdel was usually sold to an OEM supplier rather than directly to the manufacturer.<sup>202</sup>

## Customs Treatment

Tropical hardwood plywood produced in the United States would have likely received the same customs treatment as certain tropical hardwood plywood produced in Indonesia if it had been imported.<sup>203</sup> U.S. Customs classifies goods at the HTS 8-digit level, and both products would have been classified in HTS subheading 4412.31.41. However, U.S.-produced hardwood plywood with a tropical veneer would commonly be imported under a different HTS statistical reporting number than the Indonesian product imported under HTS 4412.31.4155. There was no evidence of U.S. tropical hardwood plywood production with a thickness of 3.6 mm or less during the past three calendar years; U.S. tropical hardwood plywood production would therefore have likely been imported under HTS statistical reporting number 4412.31.4165 or other HTS statistical reporting numbers within HTS subheading 4412.31.41, covering other types and dimensions of tropical hardwood plywood.

If U.S. hardwood plywood produced with a temperate veneer had been imported, it would have received different customs treatment than certain tropical hardwood plywood because temperate hardwood plywood enters under a different HTS subheading than the tropical hardwood plywood covered by 4412.31.4155. For example, hardwood plywood with a face ply of birch is imported under subheading 4412.31.06, with each ply limited to no more than 6 mm in thickness and not surface covered beyond clear or transparent material.

The thermoplastic composite panels produced in the United States would not have received the same customs treatment as the certain tropical hardwood plywood produced in Indonesia if they had been imported. Synthetic materials enter under different HTS chapters than articles of wood (such as certain tropical hardwood plywood) classified under HTS chapter 44. Thermoplastic composite panels would likely have entered under HTS chapter 39, which covers articles of polypropylene and other plastics.<sup>204</sup>

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<sup>201</sup> USITC, *Generalized System of Preferences*, September 2018, 221–22.

<sup>202</sup> USITC, hearing transcript, July 2, 2019, 48 (testimony of George Bondurant, Hanwha Azdel).

<sup>203</sup> If redesignation of HTS 4412.31.4155 for Indonesia were granted, however, a new 8-digit HTS subheading would have to be created to administer this redesignation of GSP benefits. As a result of these HTS changes, certain tropical hardwood plywood from Indonesia would receive different U.S. Customs treatment (under a new subheading) than U.S.-produced tropical hardwood plywood would receive, if it were imported.

<sup>204</sup> Import classifications are subject to determinations from the U.S. Customs and Border Protection. Reportedly, Azdel's thermoplastic composite panels are exported under HS 3921.90. Industry representative, email message to USITC staff, June 27, 2019.

## GSP Imports, 2018

Only two GSP-eligible countries supplied imports under HTS statistical reporting number 4412.31.4155 in 2018: Indonesia and India (table 7.4). Indonesia was the source of virtually all U.S. imports of certain tropical hardwood plywood from GSP-eligible countries and over 80 percent of U.S. imports of this product from all countries, despite the fact that these imports from Indonesia were not GSP-eligible. Indonesia lost GSP eligibility for HTS subheading 4412.31.41 (and all 10-digit HTS statistical reporting numbers falling under this subheading) in 2015, after the value of these imports from Indonesia exceeded 75 percent of the total value of imports.<sup>205</sup> India also supplied a minimal share of imports in the relevant period of 2018.

**Table 7.4** Certain tropical hardwood plywood not exceeding 3.6 mm in thickness but exceeding 1.2 m in width and/or 2.2 m in length (HTS statistical reporting number 4412.31.4155): Value of U.S. imports for consumption from all sources and from GSP-eligible countries, and share of U.S. consumption, July–December 2018

Item	Imports (1,000 \$)	% of total imports	% of GSP imports	% of U.S. consumption
Total U.S. imports from all sources	63,805	100.0	(a)	(b)
U.S. imports from GSP-eligible countries:				
Indonesia	51,305	80.4	99.9	(b)
India	48	(c)	(c)	(b)
Total from GSP-eligible countries	51,354	80.5	100.0	(b)

Source: Trade data compiled from official statistics from the U.S. Department of Commerce.

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

<sup>a</sup> Not applicable.

<sup>b</sup> Not available.

<sup>c</sup> Less than 0.1 percent.

Indonesian plywood production is export-oriented, with exports representing about 70 percent of domestic production based on available estimates (table 7.5). The United Nations Food and Agriculture Organization (FAO) publishes available data on production, imports, and exports of plywood from Indonesia; all of Indonesia's production and exports of plywood are tropical hardwood plywood. The FAO estimates that Indonesian production was flat during 2014–16 (the latest year for which estimated data is available), while exports slightly increased in each year from 2014 to 2016 but then fell in 2017, declining overall by about 4 percent. Indonesia started implementing a timber export certification scheme with the EU in mid-2016 and increased its law enforcement activities against illegal logging in 2017, likely affecting both production and exports.<sup>206</sup>

<sup>205</sup> Indonesia lost eligibility for HTS 4412.31.40, which was renumbered as 4412.31.41 in 2017. When imports from a GSP BDC exceed 75 percent of total imports, the GSP statute provides that the President should revoke any waiver that has been in effect for at least five years, as was the case with HTS 4412.31.41. Imports of HTS 4412.31.41 from Indonesia were granted a waiver in 2005. 15 CFR 2463 (d)(4)(B)(ii); Presidential Proc. 9333, 80 *Federal Register* 60249 (October 5, 2015); Presidential Proc. 7912, 70 *Federal Register* 37957 (June 30, 2005).

<sup>206</sup> EU FLEGT Facility, "VPA Supports Increased Law Enforcement," December 14, 2018; ITTO, "Indonesian FLEGT Wood Products Possible by Year End," June 2016.



**Table 7.5** Indonesia plywood production, exports, and imports, 2014–17 (thousand cubic meters)

	2014	2015	2016	2017
Production	3,800 <sup>a</sup>	3,800 <sup>b</sup>	3,800 <sup>b</sup>	3,800 <sup>c</sup>
Exports <sup>b</sup>	2,751 <sup>a</sup>	2,780 <sup>a</sup>	2,820 <sup>a</sup>	2,629 <sup>a</sup>
Imports <sup>c</sup>	78	62 <sup>a</sup>	62 <sup>b</sup>	39

Source: FAO, FAOSTAT, “Forestry Production and Trade” (accessed June 10, 2019).

<sup>a</sup> Unofficial figures.

<sup>b</sup> FAO estimates.

<sup>c</sup> Previous year’s data.

RVIA estimates that RV producers used about 80 to 90 percent of the U.S. imports from Indonesia described under HTS 4412.31.4155 in the second half of 2018.<sup>207</sup> The RV industry primarily uses panels that are 2.7 mm or 3.4 mm thick, consistent with the dimensions for products imported under HTS statistical reporting number 4412.31.4155.<sup>208</sup>

## U.S. Imports and Exports

The HTS classifications for tropical hardwood plywood changed considerably from 2014 to 2018, affecting the availability and comparability of U.S. import data. Tropical hardwood plywood products with at least one outer ply of certain tropical woods used to be imported under HTS subheading 4412.31.40, which was renumbered as 4412.31.41 in 2017. More significantly, on July 1, 2018, HTS statistical reporting number 4412.31.4160 was replaced with two narrower statistical reporting numbers. HTS statistical reporting number 4412.31.4160 (table 7.7) covered imports of certain tropical hardwood plywood, each ply limited to 6 mm in thickness, excluding mahogany and not surface covered beyond clear or transparent material, with panels exceeding at least one of the following dimensions: 3.6 mm in thickness, 1.2 m in width, and/or 2.2 m in length. This statistical reporting number was divided into HTS statistical reporting number 4412.31.4155 (table 7.6)—for the panels that did not exceed 3.6 mm in thickness but did exceed 1.2 m in width and/or 2.2 m in length—and HTS statistical reporting number 4412.31.4165 (table 7.8) for the panels exceeding 3.6 mm in thickness. Therefore, data for HTS statistical reporting number 4412.31.4155 (the HTS statistical reporting number requested for redesignation) are available only for the last two quarters of 2018.

<sup>207</sup> USITC, hearing transcript, July 2, 2019, 62 (testimony of Daniel Neumann, counsel to RVIA).

<sup>208</sup> RVIA, Competitive Need Limitation Waiver Request, April 18, 2019, 5.

**Table 7.6** Certain tropical hardwood plywood not exceeding 3.6 mm in thickness but exceeding 1.2 m in width and/or 2.2 m in length (HTS statistical reporting number 4412.31.4155): U.S. imports for consumption from all sources and from GSP-eligible countries, third and fourth quarters of 2018 (thousand dollars)

Country	Q3 2018	Q4 2018	Total
Imports from all sources:			
Indonesia <sup>a</sup>	26,328	24,977	51,305
Malaysia	8,832	3,617	12,448
India	48	0	48
China	0	3	3
Total	35,208	28,597	63,805
Imports from GSP-eligible countries:			
Indonesia <sup>a</sup>	26,328	24,977	51,305
India	48	0	48
Total	26,377	24,977	51,354

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

<sup>a</sup> Indonesia is a GSP-eligible country. However, in 2015 Indonesia lost GSP eligibility for articles entering under HTS subheading 4412.31.40 (which was renumbered to 4412.31.41 in 2017). Indonesia was therefore not eligible for GSP treatment for imports under HTS statistical reporting number 4412.31.4155 in 2018.

Indonesia has supplied at least 80 percent of U.S. imports of certain tropical hardwood plywood, under both the broader statistical reporting number that was in place before July 1, 2018 (HTS 4412.31.4160; table 7.6) and the narrower one corresponding to the subject product, in effect for the second half of the year (HTS 4412.31.4155; table 7.5). The majority of the subject tropical hardwood plywood imports came from Indonesia, with Malaysia as the second-largest source (providing about 20 percent of subject imports). India and China also contributed small amounts of subject tropical hardwood plywood imports. Based on data for the last two quarters of 2018, the United States imported significantly more panels of thicker tropical hardwood plywood (HTS statistical reporting number 4412.31.4165; table 7.7) than panels of the subject tropical hardwood plywood. Imports of the broader category of certain tropical hardwood plywood that was in place before July 2018 (HTS statistical reporting number 4412.31.4160) increased from 2014 to 2017. Based on the totals for imports under HTS 4412.31.41.55 and HTS 4412.31.4165, such imports continued to rise in 2018.

**Table 7.7** Certain tropical hardwood plywood exceeding 3.6 mm in thickness, 1.2 m in width, and/or 2.2 m in length (HTS statistical reporting number 4412.31.4160): U.S. imports for consumption from all sources and from GSP-eligible countries, 2014–18 (thousand dollars)<sup>a</sup>

Country	2014	2015	2016	2017	H1 2017	H1 2018
Imports from all sources:						
Indonesia <sup>b</sup>	141,773	196,206	163,036	172,240	84,975	146,609
Malaysia	19,777	22,045	16,073	22,491	10,175	35,868
China	6,598	5,878	7,216	8,776	8,006	105
Ecuador	631	847	672	1,775	842	1,385
Vietnam	1,520	1,286	1,157	1,620	790	1,331
Brazil	218	149	22	1,078	409	1,091
France	896	1,157	1,187	957	547	0
Taiwan	410	431	420	530	367	86
Canada <sup>c</sup>	33	109	224	439	319	53
India	34	0	231	418	394	0
All other	550	717	799	829	538	347
<b>Total</b>	<b>172,439</b>	<b>228,825</b>	<b>191,038</b>	<b>211,154</b>	<b>107,360</b>	<b>186,875</b>
Imports from GSP-eligible countries:						
Indonesia <sup>b</sup>	141,773	196,206	163,036	172,240	84,975	146,609
Ecuador	631	847	672	1,775	842	1,385
Brazil	218	149	22	1,078	409	1,091
India	34	0	231	418	394	0
Gabon	29	112	348	86	86	0
Cambodia	0	0	0	0	0	48
<b>Total</b>	<b>142,684</b>	<b>197,314</b>	<b>164,309</b>	<b>175,597</b>	<b>86,705</b>	<b>149,132</b>

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

<sup>a</sup> Starting in 2017, HTS statistical reporting number 4412.31.4060 was renumbered as HTS statistical reporting number 4412.31.4160. On July 1, 2018, HTS 4412.31.4160 was discontinued and replaced with HTS statistical reporting numbers 4412.31.4155 and 4412.31.4165. Accordingly, data are not available after the first half of 2018 (H1 2018).

<sup>b</sup> Indonesia is a GSP-eligible country. However, Indonesia lost GSP eligibility for articles entering under HTS subheading 4412.31.41 in 2015 and was therefore not eligible for GSP treatment for imports under HTS statistical reporting number 4412.31.4160 from 2016 through the first half of 2018.

<sup>c</sup> Free trade agreement partner.

**Table 7.8** Certain tropical hardwood plywood exceeding 3.6 mm in thickness (HTS statistical reporting number 4412.31.4165): U.S. imports for consumption from all sources and from GSP-eligible countries, third and fourth quarters of 2018 (thousand dollars)

Country	Q3 2018	Q4 2018	Total
Imports from all sources:			
Indonesia <sup>a</sup>	46,112	39,542	85,655
Malaysia	13,477	7,814	21,291
Ecuador	799	824	1,623
Vietnam	790	456	1,245
Greece	111	140	251
Taiwan	59	121	179
France	0	149	149
Canada <sup>b</sup>	55	35	90
Cambodia	49	0	49
Italy	39	0	39
All other	31	0	31
<b>Total</b>	<b>61,521</b>	<b>49,080</b>	<b>110,602</b>
Imports from GSP-eligible countries:			
Indonesia <sup>a</sup>	46,112	39,542	85,655
Ecuador	799	824	1,623
Cambodia	49	0	49
Brazil	23	0	23
<b>Total</b>	<b>46,984</b>	<b>40,366</b>	<b>87,350</b>

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

<sup>a</sup> Indonesia is a GSP-eligible country. However, Indonesia lost GSP eligibility for articles entering under HTS subheading 4412.31.41 in 2015 and was therefore not eligible for GSP treatment for imports under HTS statistical reporting number 4412.31.4155 in 2018.

U.S. exports of tropical hardwood plywood are reported under Schedule B number 4412.31.0005 (table 7.9), a much broader category of tropical hardwood plywood than the U.S. imports described in HTS statistical reporting number 4412.31.4155. Schedule B number 4412.31.0005 covers all U.S. exports of hardwood plywood with at least one outer ply of tropical wood and plies not exceeding 6 mm in thickness, including panels of hardwood plywood that are thicker than the subject product as well as panels that have outer plies of mahogany or are surface covered. Because U.S. hardwood plywood production is concentrated in panels that are thicker than 3.6 mm, most of the U.S. exports of domestic merchandise reported under Schedule B number 4412.31.0005 likely do not correspond to the subject tropical hardwood plywood.

Canada is the largest market for U.S. exports of this broad category of tropical hardwood plywood and drove overall growth in U.S. exports of this product from 2014 to 2018. U.S. exports of this product to Canada are eligible for duty-free entry under the North American Free Trade Agreement (NAFTA), if they are shown to be originating goods.

**Table 7.9** Plywood with at least one outer ply of tropical wood, plies not exceeding 6 mm in thickness (Schedule B number 4412.31.0005): U.S. exports of domestic merchandise by principal markets, 2014–18 (thousand dollars)<sup>a</sup>

Country	2014	2015	2016	2017	2018
Canada <sup>b</sup>	1,251	1,132	850	6,038	2,132
Brazil	61	14	35	716	917
Mexico <sup>b</sup>	1,071	854	636	670	806
British Virgin Islands	170	204	336	348	255
Cayman Islands	52	11	69	12	226
Bahamas	395	249	130	195	167
Taiwan	678	0	0	0	157
Bermuda	0	0	0	96	146
China	0	39	45	280	91
Democratic Rep. of the Congo	0	0	0	0	60
All other	1,094	1,836	1,196	826	466
Total	4,773	4,339	3,296	9,181	5,423

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

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

<sup>a</sup> Starting in 2017, Schedule B number 4412.31.0002 was renumbered as Schedule B 4412.31.0005.

<sup>b</sup> Free trade agreement partner.

## Positions of Interested Parties

**Petitioners:** The petition was filed by the Recreation Vehicle Industry Association (RVIA). RVIA also filed written submissions, and a representative of RVIA appeared at the Commission hearing. The party's written summary as submitted to the Commission is provided below:

My name is Samantha Rocci, and I am the Manager of Government Affairs for the RV Industry Association ("RVIA").

RVIA represents nearly 300 U.S. manufacturers accounting for 98 percent of all RVs.

This subheading should be of no interest to domestic producers, since no domestic product is like or directly competitive. It should be of very little interest to Azdel producers, because lauan is primarily used in applications where Azdel cannot.

RVIA proposed this 10 digit breakout [\* \* \*] in March 2018. Due to distinct parts of the market, a specific 10-digit subheading related to tropical hardwood plywood less than 3.6mm was prudent.

There are two reasons relevant plywood is distinct from domestic product:

First, lauan imparts specific characteristics. The plywood at issue for the RV sector has unique qualities created by the species of wood used to produce it. While cabinets or other pieces of an RV can use interchangeable species based on consumer preference, nearly all RVs use lauan.

Second, the thickness of this plywood is absolutely essential in RV manufacturing to meet both fuel efficiency standards and consumer preference.

My members buy American when possible. We buy domestic plywood for other applications. There is no production of a like or directly competitive product to lauan.

There have been zero imports of relevant logs in the preceding three years from Indonesia. Lauan is mostly found in Southeast Asia. However, as the ITC found in a 2010 report:

Without exception, all of the ASEAN countries have imposed prohibitions of one kind or another on the harvesting and/or export of unprocessed roundwood (i.e., logs) and, in some cases, on the export of sawnwood (i.e. lumber) as well[.]

Second, at no point in this year's review, or last year's, has a single company come forward and said they previously, currently, or will produce this product. There is not a single news story, website, or price sheet available for domestic production. After almost two years of outreach, we have yet to receive a single domestic price quote. We do not believe major U.S. plywood producers make any plywood in this thickness using lauan.

Regarding Azdel, our members reject that this is "like or directly competitive" with lauan. Azdel is at a minimum 1.5 to two times more expensive than lauan. Our members, including current users, do not view these products as interchangeable. A product at a completely different price point is not "directly competitive."

Second, it cannot be used in the interiors of RVs or the construction method prevents the use of Azdel entirely. This means that even when Azdel is used, the RV still contains 2 to 3 times as much lauan.

This is costing my members a million dollars a month in duties. Please help us fix this.

In support: Dina Titus, U.S. Representative from Nevada, and Jackie Walorski, U.S. Representative from Indiana, submitted a letter in support of the petition.

In support: The International Wood Products Association filed written submissions, and a representative of the International Wood Products Association appeared at the Commission hearing. The party's written summary as submitted to the Commission is provided below:

IWPA supports the redesignation of this subheading for the following reasons.

I. This plywood has unique performance characteristics not found in domestically-manufactured products

Thin-panel Lauan plywood is selected for technically demanding applications because of its stability, strength, and low weight. These characteristics differentiate this product from thicker and heavier types of plywood that are typically manufactured in the U.S.

U.S. manufacturers that specify Lauan for lamination have indicated that products such as plastic composites are not directly competitive with thin-panel Lauan plywood. Lauan is known to be stiffer, stronger, and more rigid than plastic composites, while also being more suited to additional value-added manufacturing such as the attachment of wallpaper and nailing.

II. The performance characteristics of this product make it a critical input for U.S. manufacturers.

The unique performance characteristics of Lauan plywood make it the input of choice for many U.S. manufacturers, including in the U.S. RV industry. U.S. manufacturers of RVs utilize Lauan because it allows them to maximize an RV's living space and fuel efficiency as demanded by U.S.

consumers. While plastic composites can be specified for certain RV applications, Lauan's unique strength, stiffness, and suitability for nailing are unique. Since 2015, U.S. importers and their customers in RV manufacturing have continued to source this product despite its exclusion from the GSP program because of these unique characteristics.

### III. GSP duty elimination supports Indonesian efforts to ensure the legality of wood products sector

Duty-free entry of this product would also serve to support the important work the Republic of Indonesia is doing with respect to timber legality. Under its Forest Law Enforcement, Governance, and Trade (FLEGT) system, the European Union currently recognizes that all wood products exports from Indonesia are verified legal origin under Indonesia's SVLK system. This mechanism provides U.S. importers with critical confirmation about legal sourcing and compliance with the Lacey Act.

### IV. Conclusion

Duty-free entry of HTS 4412.31.4155 under GSP is in the national economic interest of the U.S. Like or directly competitive Lauan plywood is not manufactured in the U.S. This product supports thousands of manufacturing jobs in the United States. Duty-free entry also supports U.S. environmental goals by providing a market incentive to a nation that has taken steps to ensure the health of its tropical forests.

In support: Patrick Industries, Inc., filed written submissions, and a representative of Patrick Industries appeared at the Commission hearing. The party's written summary as submitted to the Commission is provided below:

I am Scott Warren, quality director at Patrick Industries, Incorporated in Elkhart, Indiana. Founded in 1959, our company is a major manufacturer and distributor of component and building products for the RV industry. We employ over 8,000 Americans. My personal experience with Patrick began in 2001.

In my career in this industry, I've seen many attempts to replace lauan in RVs. None have ever worked.

We sell a significant amount of lauan and meranti plywood, and we also sell American plywood and the composite Azdel to the RV sector. We sold lauan when it was duty-free under GSP, and we have continued to sell it when the duty was reimposed.

There is no alternative material available to the RV sector. This is a specialized product. Neither plywood made from another species, plywood of another thickness, or Azdel could be utilized by the RV sector for all applications of lauan.

There are three main reasons why there are no domestic producers of a like or competitive product. First, is the thickness of the plywood. For some applications, the species of wood is determined by consumer preference.

To qualify for this tariff line, plywood can be no thicker than 3.6 millimeters. Much of the supply to the RV sector is less than an eighth of an inch. U.S. producers generally make plywood that is a quarter inch or thicker.

Also, for American plywood producers, there is no money in plywood of this thickness compared to what they can make with the same amount of material for quarter inch plywood.

The third important factor is the supply of logs. Lauan and meranti do not grow in the continental United States. Therefore, it would need to be imported. I am not aware of any ability to source this product from Indonesia or other sources of this wood legally in the United States.

It is impossible to make lauan and meranti plywood domestically, and U.S. plywood does not share the same characteristics. I sell domestic temperate hardwood plywood. I sell imported tropical hardwood plywood. They are separate markets.

Regarding Azdel, there are specific reasons this is not a like or directly competitive component. This is a product widely used in the automotive sector that has been attempted to be modified for the RV sector, with limited applications.

Azdel is significantly more expensive than lauan. The price difference subsumes the duty cost on lauan.

In support: Winnebago Industries, Inc., filed written submissions, and a representative of Winnebago Industries appeared at the Commission hearing. The party's written summary as submitted to the Commission is provided below:

Winnebago Industries is an industry leading manufacturer of Recreation Vehicles. Our company was incorporated in Iowa in 1958 and today we have nine campuses in five states, with 4,700 hardworking Americans helping to build our products, with many more supplying parts, providing services and repairs, and sales.

We are proud of our innovation in our field. We have long worked to deliver safe, dependable products that meet or exceed all safety and fuel economy standards, as well as customer expectations.

Just as importantly for us, we work to make the RV experience accessible to all Americans. Travel via RV has long been a safe, affordable way for Americans to experience our great country. I find it highly relevant that we are meeting today during the peak travel season. RV users utilize federal, state and private campgrounds and lands and impact the local economies.

In order for RVs to meet customer expectations and still meet necessary standards, a number of steps must be taken. This includes consideration for weight, strength and physical properties. Lauan and meranti plywood are essential for specific manufacturing applications essential to our production. Since this product was removed from GSP, Winnebago has continued to import tropical hardwood plywood from Indonesia since no alternatives are available.

I have never been aware of a domestic producer of this product. Let me be clear: I have worked for one of the largest RV companies in the world for over 30 years, and to my knowledge we



have never sourced lauan or meranti plywood less than 3.6mm in thickness from a domestic producer.

At the same time, we extensively source temperate hardwood plywood domestically and are well aware of what is available in the current market. Our products will often have interior components made from domestically sourced plywood. We are proud to source these materials domestically.

Regarding a composite product known as Azdel, Winnebago Industries does use this product in limited instances. There are a number of reasons it is neither like, nor directly competitive, with lauan. One being the price. Azdel is cost prohibitive even for its limited applications.

Another key issue is that for the interior walls of the RV, Azdel cannot be used for the central application of the product – the walls and cabinetry of an RV. Thus, even in RVs where Azdel is utilized, two or three times as much lauan is still required.

Lauan and meranti offer unique characteristics that resist warping and that domestic plywood does not offer. Plywood made in America, for example, from birch or oak trees grown here, does not have the same properties, and is generally made much thicker.

In opposition: The Coalition for Fair Trade in Hardwood Plywood filed written submissions, and a representative of The Coalition for Fair Trade in Hardwood Plywood appeared at the Commission hearing. The party's written summary as submitted to the Commission is provided below:

The Coalition for Fair Trade in Hardwood Plywood and its individual members, Columbia Forest Products, Commonwealth Plywood Inc., Murphy Plywood, States Industries, Inc., and Timber Products Company opposes redesignation of eligibility for GSP status for products under HTS subheadings subheadings 4412.10.05 and 4412.31.4155 from Indonesia for several reasons. As an initial matter, the domestic industry does produce hardwood plywood with face veneers of tropical species and the domestic industry does produce hardwood plywood of thinner thicknesses. The specific plywood under review competes head-to-head with tropical species and other hardwood plywood products produced by the domestic industry. To this end, domestically produced hardwood plywood is entirely suitable for use in RV manufacturing. Indeed, in its 2017 investigation of hardwood plywood from China, the Commission found that “large shares of reported 2016 purchases of . . . U.S.-produced . . . hardwood plywood were used in...RV/mobile home applications.” The USDA's published values for domestic and imported species, the performance characteristics of a domestic panel (e.g. birch, maple, fir) would be comparable, if not superior, to Luan. The primary reason that Indonesian Luan is more commonly used in RV applications is price. Lastly, were the 8 percent duty on Indonesian tropical species eliminated, it is likely that Indonesia would become a greater conduit for circumvention of the antidumping and countervailing duty orders on hardwood plywood from China. For these reasons, the Coalition opposes redesignation of eligibility for GSP status for products under HTS subheadings 4412.10.05 and 4412.31.4155 from Indonesia.

In opposition: Hanwha Azdel, Inc. filed written submissions, and a representative of Hanwha Azdel, Inc. appeared at the Commission hearing.

## Generalized System of Preferences: Possible Modifications, 2018 Review

No other statements were received by the Commission in support of, or in opposition to, the proposed modification to GSP considered for this subheading.

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## Generalized System of Preferences: Possible Modifications, 2018 Review

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U.S. International Trade Commission (USITC). Hearing transcript in connection with Inv. No. 332-572, *Generalized System of Preferences: Possible Modifications, 2018 Review*, July 3, 2019.

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# Chapter 8

## Summary Advice of Probable Economic Effects

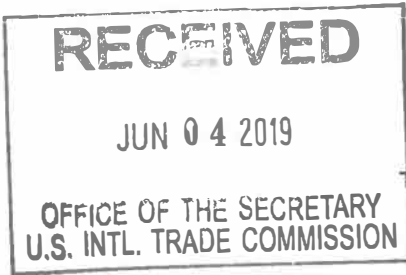
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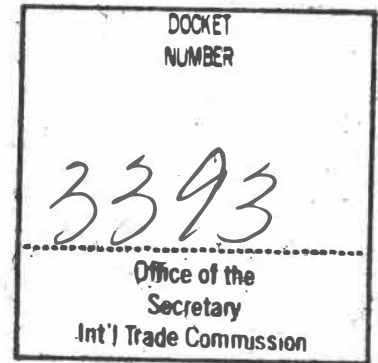
# Appendix A Request Letter







THE UNITED STATES TRADE REPRESENTATIVE  
EXECUTIVE OFFICE OF THE PRESIDENT  
WASHINGTON



June 4, 2019

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

Dear Chairman Johanson:

As part of the 2018/2019 Annual Review for modification of the Generalized System of Preferences (GSP), the Trade Policy Staff Committee (TPSC) has recently decided to accept certain product petitions, including petitions for waivers of competitive need limitations (CNLs). Modifications to the GSP program that may result from this review are expected to be announced on or before October 31, 2019 and to become effective on or before November 1, 2019.

I hereby notify the Commission that articles identified in Table A are being considered for removal from eligibility for duty-free treatment under the GSP program from certain countries. 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 as to the probable economic effect of the removal from eligibility for duty-free treatment under the GSP program for these articles from the listed GSP countries on total U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers.

I hereby notify the Commission that articles identified in Table B are being considered for a waiver of the Competitive Need Limitations (CNLs) specified in Section 503(c)(2)(A) of the Trade Act of 1974, as amended ("the 1974 Act"). Under authority delegated by the President, pursuant to Section 332(g) of the Tariff Act of 1930, and in accordance with Section 503(d)(1)(A) of the 1974 Act, I request that the Commission provide advice on whether any industry in the United States is likely to be adversely affected by a waiver of the Competitive Need Limitations (CNLs) specified in Section 503(c)(2)(A) of the 1974 Act for the countries and articles specified in Table B of the enclosed Annex. I also request that the Commission provide its advice as to the probable economic effect on total U.S. imports, as well as on consumers, of the requested waivers. With respect to the Competitive Need Limitation in Section 503(c)(2)(A)(i)(I) of the 1974 Act, the Commission is requested to use the dollar value limit of \$185 million. Further, pursuant to Section 332(g) of the Tariff Act of 1930 and in accordance with Section 503(c)(2)(E) of the 1974 Act, I request that the Commission provide its advice as to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.

I hereby notify the Commission that the articles from the designated GSP beneficiary countries identified in Table C of the enclosed Annex are being considered for redesignation as eligible articles from certain beneficiary countries for purposes of the GSP program. Under authority delegated by the President, pursuant to Section 332(g) of the Tariff Act of 1930, I therefore request that the Commission provide its advice as to the probable economic effect on total U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers of the elimination of U.S. import duties on the articles in Table C from the listed beneficiary countries. Further, pursuant to Section 332(g) of the Tariff Act of 1930 and in accordance with Section 503(c)(2)(E) of the 1974 Act, I request that the Commission provide its advice as to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.

To the extent possible, I would appreciate it if the probable economic effect advice and statistics (profile of the U.S. industry and market and U.S. import and export data) and any other relevant information or advice is provided separately and individually for each U.S. Harmonized Tariff Schedule subheading for all products subject to this request.

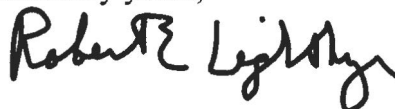
In accordance with USTR policy on implementing Executive Order 13526, as amended, I direct you to mark or identify as "Confidential," for a period of ten years, such portions of the Commission's report and its working papers that contain the Commission's advice and assessment of probable economic effects on domestic industries, on U.S. imports, and on U.S. consumers. Consistent with the Executive Order, this information is being classified on the basis that it concerns economic matters relating to national security. In addition, USTR considers the Commission's report to be an interagency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

I request that you submit an outline of this report as soon as possible to enable USTR officials to provide you with further guidance on its classification, including the extent to which portions of the report will require classification and for how long. Based on this outline, an appropriate USTR official will provide you with written instructions. All confidential business information contained in the report should also be clearly identified.

I would greatly appreciate if the requested advice, including those portions indicated as "Confidential" be provided to my office by September 7, 2019. Once the Commission's confidential report is provided to my Office, and we review and approve the classification marking, the Commission should issue, as soon as possible thereafter, a public version of the report containing only the unclassified information, with any confidential business information deleted.

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

Sincerely yours,



Robert E. Lighthizer

**ANNEX**

Products are listed by Harmonized Tariff Schedule of the United States (HTS) subheadings. The product descriptions in this list are for informational purposes only; the definitive tariff nomenclature for the products listed below can be found in the HTS (except in those cases where only part of a subheading is the subject of a petition). The descriptions below are not intended to delimit in any way the scope of the relevant subheadings. The HTS may be viewed at <https://hts.usitc.gov/current>. The petitions cited below may be found on [www.regulations.gov](http://www.regulations.gov) in Docket USTR-2019-0001.

**Table A: 2018/2019 GSP Annual Review- Petitions submitted to remove duty-free status from the listed countries for a product on the list of eligible articles for the Generalized System of Preferences**

HTS Subheading	Brief Description	Petitioner	Country
3907.61.00	Polyethylene terephthalate, having a viscosity number of 78 ml/g or higher	PET Resin Coalition	Pakistan
3907.69.00	Polyethylene terephthalate, having a viscosity number less than 78 ml/g	PET Resin Coalition	Pakistan

**Table B: 2018/2019 GSP Annual Review- Petitions submitted for waiver of GSP CNLs**

HTS Subheading	Brief Description	Petitioner	Country
3823.11.00	Stearic acid	American eChem, Government of Indonesia	Indonesia
9001.50.00	Spectacle lenses of materials other than glass, unmounted	The Vision Council, Royal Thai Embassy	Thailand

**Table C: 2018/2019 GSP Annual Review- Petitions submitted for re-designation of excluded items from the listed countries**

<b>HTS Subheading</b>	<b>Brief Description</b>	<b>Petitioner</b>	<b>Country</b>
0603.13.00	Orchids, fresh cut	ECAN RMS, Leis by Ron, Royal Thai Embassy	Thailand
4412.10.05	Plywood, veneered panels and similar laminated wood, of bamboo	Government of Indonesia	Indonesia
4412.31.4155	Plywood sheets n/o 6mm thick, with specified tropical wood outer ply, with face ply nesoi, not surface covered beyond clear/transparent	Recreational Vehicle Industry Association	Indonesia
4418.73.40	Assembled flooring panels of bamboo, other than for mosaic, multilayer, having a face ply more than 6mm in thickness	Government of Indonesia	Indonesia

**From:** Gresser, Edward B. EOP/USTR  
**Sent:** Thursday, August 8, 2019 3:42 PM  
**To:** Andberg, Jennifer  
**Subject:** Bamboo flooring panels / GSP review

Dear Jennifer,

I understand that one of the articles (4418.73.40 - Assembled flooring panels of bamboo, other than for mosaic, multilayer, having a face ply more than 6mm in thickness) that USTR requested that the ITC examine in the annual GSP report is already eligible to receive preferential access under GSP. Thus it is not eligible for a redesignation request.

Therefore, please do not include a discussion of this article in the annual GSP report due to USTR on September 7<sup>th</sup>.

Sincerely,

Edward Gresser  
Assistant USTR/Trade Policy and Economics



# **Appendix B**

## ***Federal Register Notices***





4. Provide the nominator's original signature, daytime telephone number, and email address.

5. Include the nominee's full legal name, home address, home telephone number, and email address.

Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable the Department of the Interior to make an informed decision regarding meeting the membership requirements of the Committee and permit the Department of the Interior to contact a potential member.

**Public Disclosure of Comments:** Before including your address, phone number, email address, or other personal identifying information with your nomination, you should be aware that your entire nomination—including your personal identifying information—may be made publicly available at any time. While you can ask us in your nomination to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Authority:** 5 U.S.C. Appendix 2; 25 U.S.C. 3006.

**Alma Ripps,**  
Chief, Office of Policy.

[FR Doc. 2019-12173 Filed 6-10-19; 8:45 am]

**BILLING CODE 4312-52-P**

**INTERNATIONAL TRADE COMMISSION**

[Investigation No. 332-572]

**Generalized System of Preferences: Possible Modifications, 2018 Review**

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of institution of investigation and scheduling of public hearing.

**SUMMARY:** Following receipt of a request on June 4, 2019, from the United States Trade Representative (USTR), the U.S. International Trade Commission (Commission) instituted investigation No. 332-572, *Generalized System of Preferences: Possible Modifications, 2018 Review*, for the purpose of providing advice and information relating to the possible removal of articles, waiver of competitive need limitations, and redesignation of articles.

**DATES:**

*June 18, 2019:* Deadline for filing requests to appear at the public hearing.

*June 18, 2019:* Deadline for filing pre-hearing briefs and statements.

*July 2, 2019:* Public hearing.

*July 8, 2019:* Deadline for filing post-hearing briefs and statements.

*July 8, 2019:* Deadline for filing all other written submissions.

*September 9, 2019:* Transmittal of Commission report to the USTR.

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

**FOR FURTHER INFORMATION CONTACT:**

Information specific to this investigation may be obtained from Mark Brininstool, Project Leader, Office of Industries (202-708-1395 or [mark.brininstool@usitc.gov](mailto:mark.brininstool@usitc.gov)), Sharon Ford, Deputy Project Leader, Office of Industries (202-205-

3084 or [sharon.ford@usitc.gov](mailto:sharon.ford@usitc.gov)), or Marin Weaver, Technical Advisor, Office of Industries (202-205-3461 or [marin.weaver@usitc.gov](mailto:marin.weaver@usitc.gov)). For information on the legal aspects of this investigation, contact William Gearhart of the Commission's Office of the General Counsel (202-205-3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O'Laughlin, Office of External Relations (202-205-1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-205-1810. General information concerning the Commission may also be obtained by accessing its website (<https://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

**Background:** In his letter, the USTR requested the advice and information described below.

(1) *Advice concerning the probable economic effect of removal of certain articles from certain countries from eligibility for duty-free treatment.* The USTR notified the Commission that two articles from Pakistan are being considered for removal from eligibility for duty-free treatment under the GSP program. Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, with respect to the article listed in table A of the annex to the USTR request letter, the USTR requested that the Commission provide its advice as to the probable economic effect of the removal from eligibility for duty-free treatment under the GSP program for these articles from Pakistan on total U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers (see table A below).

**TABLE A—PETITIONS SUBMITTED TO REMOVE DUTY-FREE STATUS FROM THE LISTED COUNTRIES FOR A PRODUCT ON THE LIST OF ELIGIBLE ARTICLES FOR THE GENERALIZED SYSTEM OF PREFERENCES**

HTS subheading	Brief description	Country
3907.61.00 .....	Polyethylene terephthalate, having a viscosity number of 78 ml/g or higher .....	Pakistan.
3907.69.00 .....	Polyethylene terephthalate, having a viscosity number less than 78 ml/g .....	Pakistan.

(2) *Advice concerning the waiver of certain competitive need limitations.* Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, and in accordance with section 503(d)(1)(A) of the 1974 Act, the USTR requested that the Commission provide advice on whether any industry in the United

States is likely to be adversely affected by a waiver of the competitive need limitations (CNLs) specified in section 503(c)(2)(A) of the 1974 Act for the countries and articles specified in table B of the annex to the request letter (see table B below). The USTR also requested that the Commission provide its advice as to the probable economic

effect on total U.S. imports, as well as on consumers, of the requested waivers. With respect to the competitive need limitation in section 503(c)(2)(A)(i)(I) of the 1974 Act, the USTR requested that the Commission use the dollar value limit of \$185 million. Further, pursuant to section 332(g) of the Tariff Act of 1930 and in accordance with section

503(c)(2)(E) of the 1974 Act, the USTR requested that the Commission provide its advice with respect to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.

TABLE B—PETITIONS SUBMITTED FOR WAIVER OF GSP CNLs

HTS subheading	Brief description	Country
3823.11.00 .....	Stearic acid .....	Indonesia.
9001.50.00 .....	Spectacle lenses of materials other than glass, unmounted .....	Thailand.

(3) *Advice concerning redesignations.* The USTR notified the Commission that four articles are being considered for redesignation as eligible articles for purposes of the GSP program. Under authority delegated by the President, pursuant to section 332(g) of the Tariff Act of 1930, the USTR requested that the Commission provide its advice as to

the probable economic effect on total U.S. imports, on U.S. industries producing like or directly competitive articles, and on U.S. consumers of the articles in table C of the annex to the USTR request letter from the listed beneficiary countries (see table C below). Further, pursuant to section

332(g) of the Tariff Act of 1930 and in accordance with section 503(c)(2)(E) of the 1974 Act, the USTR requested that the Commission provide its advice as to whether a like or directly competitive article was produced in the United States in any of the preceding three calendar years.

TABLE C—PETITIONS SUBMITTED FOR REDESIGNATION OF EXCLUDED ITEMS FROM THE LISTED COUNTRIES

HTS subheading	Brief description	Country
0603.13.00 .....	Orchids, fresh cut .....	Thailand.
4412.10.05 .....	Plywood, veneered panels and similar laminated wood, of bamboo .....	Indonesia.
4412.31.4155 .....	Plywood sheets n/o 6mm thick, with specified tropical wood outer ply, with face ply nesoi, not surface covered beyond clear/transparent.	Indonesia.
4418.73.40 .....	Assembled flooring panels of bamboo, other than for mosaic, multilayer, having a face ply more than 6mm in thickness.	Indonesia.

*Time for reporting, HTS detail, portions of report to be classified.* As requested by the USTR, the Commission will provide the requested advice and information by September 7, 2019. The USTR asked that the Commission issue, as soon as possible thereafter, a public version of the report containing only the unclassified information, with any confidential business information deleted. As requested, the Commission will provide its probable economic effect advice and statistics (profile of the U.S. industry and market and U.S. import and export data) and any other relevant information or advice separately and individually for each U.S. Harmonized Tariff Schedule subheading for all products subject to the request. The USTR indicated that those sections of the Commission's report and working papers that contain the Commission's advice and assessment of probable economic effects on domestic industries, on U.S. imports, and on U.S. consumers, will be classified as "confidential." The USTR also stated that his office considers the Commission's report to be an inter-agency memorandum that will contain pre-decisional advice and be subject to the deliberative process privilege.

*Public Hearing:* A public hearing in connection with this investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW,

Washington, DC, beginning at 9:30 a.m. on July 2, 2019. Requests to appear at the public hearing should be filed with the Secretary no later than 5:15 p.m., June 18, 2019. All pre-hearing briefs and statements should be filed no later than 5:15 p.m., June 18, 2019; and all post-hearing briefs and statements should be filed no later than 5:15 p.m., July 8, 2019. All requests to appear, and pre- and post-hearing briefs and statements should be filed in accordance with the requirements of the "written submissions" section below.

*Written Submissions:* In lieu of or in addition to appearing at the hearing, interested parties are invited to file written submissions concerning this investigation. All written submissions should be addressed to the Secretary, and should be received not later than 5:15 p.m., July 8, 2019. All written submissions must conform to the provisions of § 201.8 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.8). Section 201.8 and the Commission's Handbook on Filing Procedures ([https://www.usitc.gov/documents/handbook\\_on\\_filing\\_procedures.pdf](https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf)) requires that interested parties file documents electronically on or before the filing deadline and submit eight (8) true paper copies by 12:00 p.m. eastern time on the next business day. In the event that confidential treatment of a document is

requested, interested parties must file, at the same time as the eight paper copies, at least four (4) additional true paper copies in which the confidential information must be deleted (see the following paragraph for further information regarding confidential business information). Persons with questions regarding electronic filing should contact the Office of the Secretary, Docket Services Division (202-205-1802).

*Confidential Business Information:* Any submissions that contain confidential business information must also conform with the requirements of § 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). Section 201.6 of the rules requires that the cover of the document and the individual pages be clearly marked as to whether they are the "confidential" or "non-confidential" version, and that the confidential business information is clearly identified by means of brackets. All written submissions, except for confidential business information, will be made available for inspection by interested parties.

The Commission may include some or all of the confidential business information submitted in the course of this investigation in the report it sends to the USTR. Additionally, all information, including confidential business information, submitted in this

investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel for cybersecurity purposes. The Commission will not otherwise disclose any confidential business information in a manner that would reveal the operations of the firm supplying the information.

**Summaries of Written Submissions:** The Commission intends to publish summaries of the positions of interested persons. Persons wishing to have a summary of their position included in the report should include a summary with their written submission and should specifically state the summary is intended for that purpose, and it should be titled as such. The summary may not exceed 500 words, should be in MSWord format or a format that can be easily converted to MSWord, and should not include any confidential business information. The summary will be included in the report as provided if it meets these requirements and is germane to the subject matter of the investigation. The Commission will identify the name of the organization furnishing the summary and will include a link to the Commission's Electronic Document Information System (EDIS) where the full written submission can be found.

By order of the Commission.

Issued: June 7, 2019.

**Katherine Hiner,**

*Supervisory Attorney.*

[FR Doc. 2019-12421 Filed 6-10-19; 8:45 am]

**BILLING CODE 7020-02-P**

## DEPARTMENT OF JUSTICE

### Federal Bureau of Investigation

[OMB Number 1110-0001]

#### Agency Information Collection Activities; Proposed eCollection Comments Requested; Extension of a Currently Approved Collection; Return A—Monthly Return of Offenses Known to Police and Supplement to Return A—Monthly Return of Offenses Known to Police

**AGENCY:** Federal Bureau of Investigation, Department of Justice.

**ACTION:** 60-Day notice.

**SUMMARY:** The Department of Justice (DOJ), Federal Bureau of Investigation (FBI), Criminal Justice Information Services Division (CJIS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

**DATES:** The Department of Justice encourages public comment and will accept input until August 12, 2019.

**FOR FURTHER INFORMATION CONTACT:** Written comments and/or suggestions regarding the items contained in this notice, especially the estimated burden and associated response time, should be directed to Mrs. Amy C. Blasher, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services Division, Module E-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention: Department of Justice Desk Officer, Washington, DC 20503 or send to [OIRA\\_submissions@omb.eop.gov](mailto:OIRA_submissions@omb.eop.gov).

**SUPPLEMENTARY INFORMATION:** Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Evaluate the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

#### Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.

2. *The Title of the Form/Collection:* Return A—Monthly Return of Offenses Known to Police and Supplement to Return A—Monthly Return of Offenses Known to Police and Supplement of Return A—Monthly Return of Offenses Known to Police.

3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: 1-720 and 1-706.

*Sponsor:* Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

4. *Affected public who will be asked or required to respond, as well as a brief abstract:* City, county, state, tribal and federal law enforcement agencies. Abstract: Under Title 28, U.S. Code 534, Acquisition, Preservation, and Exchange of Identification Records; Appointments of Officials, 1930, this collection requests Part I offense and clearance data, as well as stolen and recovered monetary values of stolen property throughout the United States from city, county, state, tribal, and federal law enforcement agencies in order for the FBI UCR Program to serve as the national clearinghouse for the collection and dissemination of crime data and to publish these statistics in the *Preliminary Semi-Annual Report and Crime in the United States*.

5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 18,576 law enforcement agencies within the universe of potential respondents. Based on current reporting patterns, approximately 9,672 law enforcement agencies would submit monthly resulting in 116,064 responses with an estimated response time of 7 minutes per response on this form. The remaining 7,027 agencies would provide responses through the National Incident-Based Reporting System covered under a different data collection.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are approximately 9,672 hours, annual burden, associated with this information collection.

*If additional information is required contact:* Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, 3E.405A, Washington, DC 20530.

(“Commerce”) that countervailable subsidies are being provided to producers and exporters of glycine from China and India<sup>3</sup> and that imports of glycine from India and Japan,<sup>4</sup> were being sold at less than fair value (“LTFV”) in the United States. Notice of the scheduling of the final phase of the Commission’s investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of February 6, 2019 (84 FR 3486). The hearing was held in Washington, DC, on April 30, 2019, and all persons who requested the opportunity were permitted to appear in person or by counsel. The Commission subsequently determined that imports of glycine from India and Japan are sold in the United States at LTFV and that imports of glycine are being subsidized by the governments of China and India.<sup>5</sup> Commerce has issued a final affirmative determination that glycine from Thailand is being, or is likely to be, sold in the United States at LTFV.<sup>6,7</sup> Accordingly, the Commission currently is issuing a supplemental schedule for its antidumping duty investigation on imports of glycine from Thailand.

This supplemental schedule is as follows: The deadline for filing supplemental briefs is August 30, 2019. Supplemental briefs may address only the Commission’s final antidumping duty determination regarding imports of glycine from Thailand. These supplemental briefs may not exceed fifteen (15) pages in length. The supplemental staff report in the final phase of this investigation regarding subject imports from Thailand will be placed in the nonpublic record on September 5, 2019; and a public version will be issued thereafter. Parties to this investigation may file supplemental

<sup>3</sup> *Glycine From the People’s Republic of China: Final Affirmative Countervailing Duty Determination* (84 FR 18489, May 1, 2019) and *Countervailing Duty Investigation of Glycine From India: Affirmative Final Determination* (84 FR 18482, May 1, 2019).

<sup>4</sup> *Glycine From India: Final Determination of Sales at Less Than Fair Value* (84 FR 18487, May 1, 2019) and *Glycine From Japan: Final Determination of Sales at Less Than Fair Value* (84 FR 18484, May 1, 2019).

<sup>5</sup> *Glycine From China, India, and Japan; Determinations* (84 FR 29238, June 21, 2019).

<sup>6</sup> *Glycine From Thailand: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances in Part* (84 FR 37998, August 5, 2019).

<sup>7</sup> *Glycine From Thailand: Final Negative Countervailing Duty Determination and Final Negative Critical Circumstances Determination* (84 FR 38007, August 5, 2019).

final comments that contain no new factual information and may not exceed five (5) pages in length, on September 10, 2019.

For further information concerning this investigation see the Commission’s notice cited above and the Commission’s Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission’s rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission’s rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission’s rules.

By order of the Commission.

Issued: August 19, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–18144 Filed 8–22–19; 8:45 am]

**BILLING CODE 7020–02–P**

## INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–572]

### Generalized System of Preferences: Possible Modifications, 2018 Review

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice of amendment of scope of investigation.

**SUMMARY:** Following receipt on August 8, 2019, of a correction to the United States Trade Representative’s (USTR) request letter of June 4, 2019, the U.S. International Trade Commission (Commission) has amended the scope of its investigation No. 332–572, Generalized System of Preferences: Possible Modifications, 2018 Review, and has removed assembled flooring panels of bamboo, other than for mosaic, multilayer, having a face ply more than 6 mm in thickness from Indonesia,

provided for in subheading 4418.73.40 of the Harmonized Tariff Schedule, from the list of articles being considered for redesignation in table C of the Annex to USTR’s request letter. As a result, the Commission will not provide advice regarding this article.

**DATES:** September 9, 2019: Transmittal of Commission report to the USTR.

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

**FOR FURTHER INFORMATION CONTACT:**

Information specific to this investigation may be obtained from Mark Brininstool, Project Leader, Office of Industries (202–708–1395 or [mark.brininstool@usitc.gov](mailto:mark.brininstool@usitc.gov)), Sharon Ford, Deputy Project Leader, Office of Industries (202–205–3084 or [sharon.ford@usitc.gov](mailto:sharon.ford@usitc.gov)), or Marin Weaver, Technical Advisor, Office of Industries (202–205–3461 or [marin.weaver@usitc.gov](mailto:marin.weaver@usitc.gov)). For information on the legal aspects of this investigation, contact William Gearhart of the Commission’s Office of the General Counsel (202–205–3091 or [william.gearhart@usitc.gov](mailto:william.gearhart@usitc.gov)). The media should contact Margaret O’Laughlin, Office of External Relations (202–205–1819 or [margaret.olaughlin@usitc.gov](mailto:margaret.olaughlin@usitc.gov)). Hearing-impaired individuals may obtain information on this matter by contacting the Commission’s TDD terminal at 202–205–1810. General information concerning the Commission may also be obtained by accessing its website (<http://www.usitc.gov>). Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

*Background:* All dates and other information relating to this investigation remain the same as in the Commission’s notice of investigation and public hearing issued on June 7, 2019 and published in the **Federal Register** of June 11, 2019 (84 FR 27159).

By order of the Commission.

Issued: August 19, 2019.

**Lisa Barton,**

*Secretary to the Commission.*

[FR Doc. 2019–18160 Filed 8–22–19; 8:45 am]

**BILLING CODE 7020–02–P**

# **Appendix C**

## **Calendar of Hearing Witnesses**



**CALENDAR OF PUBLIC HEARING**

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

**Subject:** Generalized System Preferences: Possible Modifications, 2018

**Inv. No.:** 332-572

**Date and Time:** July 2, 2019 - 9:30 a.m.

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

**EMBASSY APPEARANCE:**

**Embassy of the Republic of Indonesia**  
**Washington, DC**

**Reza Pahlevi Chairul, Commercial Attaché**

**PANEL 1:**

**ORGANIZATION AND WITNESS:**

Sorini, Samet & Associates  
Washington, DC  
on behalf of

RV Industry Association ("RVIA")

(U) Generalized System of Preferences: Possible Modifications, 2018 Review

**Samantha Rocci**, Manager of Government Affairs, RVIA

**Daniel Neumann**, Director of Government Affairs,  
Sorini, Samet & Associates

Sorini, Samet & Associates

Washington, DC

on behalf of

Winnebago

**Chad Reece**, Director of Corporate Relations, Winnebago

**Daniel Neumann**, Director of Government Affairs,  
Sorini, Samet & Associates

Sorini, Samet & Associates

Washington, DC

on behalf of

Patrick Industries

**Scott Warren**, Quality Director, Patrick Industries

**Daniel Neumann**, Director of Government Affairs,  
Sorini, Samet & Associates

**PANEL 1 (continued):**



**ORGANIZATION AND WITNESS:**

International Wood Products Association  
Alexandria, VA

**Joseph L. O'Donnell**, Director, Government and Public Affairs

Wiley Rein LLP  
Washington, DC  
on behalf of

Coalition for Fair Trade in Hardwood Plywood and its Individual Members

**Clifford T. "Kip" Howlett**, President, Decorative Hardwoods Association

**Tessa V. Capeloto** ) – OF COUNSEL

Hanwha Azdel, Inc.  
Forest, VA

**George Bondurant**, Chief Operation Officer

**PANEL 2:**

**ORGANIZATION AND WITNESS:**

Kelley Drye & Warren LLP  
Washington, DC  
on behalf of

Generalized System of Preferences: Possible Modifications, 2018 Review

U.S. PET Resin Coalition

**John Freeman**, Assistant Director of Sales,  
Nan Ya Plastics Corporation, America

**Ricky Lane**, Public Affairs, Trade Relations and Corporate Communications, Director  
DAK Americas LLC

**Paul C. Rosenthal** )  
 ) – OF COUNSEL  
**Jennifer E. McCadney** )

Neville Peterson LLP  
Washington, DC  
on behalf of

Niagara Bottling, LLC

**Shawn Safieddin**, Vice President, Supply Chain

**Maria E. Celis** ) – OF COUNSEL

**PANEL 2 (continued):**

**ORGANIZATION AND WITNESS:**

Jacobs Global Trade & Compliance LLC

McLean, VA

on behalf of

Novatex Limited

G-Pac Corporation

**Rizwan Diwan**, Executive Director, Novatex Limited

**Pervaiz Anwar**, Senior Manager, Novatex Limited

**Kafeel Zehri**, Senior Manager, Novatex Limited

**Brenda A. Jacobs**

) – OF COUNSEL

Barnes, Richardson & Colburn

Washington, DC

on behalf of

The Vision Council

**Greg Chavez**, Executive Vice President of Operations and Mgmt,

The Vision Council

**Frederic Van Arnam**

) – OF COUNSEL

**- END -**

