National Retail Federation®
The Voice of Retail Worldwide

November 17, 2009

The Honorable Sander M. Levin
Chairman
Ways and Means Trade Subcommittee
United States House of Representatives
1104 Longworth House Office Building
Washington, DC 20515

RE: Hearing: Operation, Impact, and Future of the U.S. Preference Programs

Dear Chairman Levin:

On behalf of its members in the U.S. retail industry, the National Retail Federation (NRF) welcomes the opportunity to submit these comments to the Ways and Means Trade Subcommittee regarding the operation, impact, and future of the U.S. trade preference programs, including how U.S. preference programs fit into retailers' sourcing strategies.

The **National Retail Federation** is the world's largest retail trade association, with membership that comprises all retail formats and channels of distribution including department, specialty, discount, catalog, Internet, independent stores, chain restaurants, drug stores and grocery stores as well as the industry's key trading partners of retail goods and services. NRF represents an industry with more than 1.6 million U.S. retail establishments, more than 24 million employees - about one in five American workers - and 2008 sales of $4.6 trillion. As the industry umbrella group, NRF also represents over 100 state, national and international retail associations

Introduction

The retail industry has strongly supported U.S. trade preference programs for developing countries, such as the Generalized System of Preferences (GSP), the African Growth and Opportunity Act (AGOA), the Caribbean Basin Initiative/Caribbean Basin Trade Preferences Act (CBI/CBTPA), the Andean Trade Preferences and Drug Eradication Act (ATPDEA), and the Haitian Hemispheric Opportunity through Partnership Encouragement (HOPE) Act. U.S. retailers have used the preference programs to import a variety of consumer goods. In the process, they have provided needed export markets for poor countries, jobs and economic opportunity for people in

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those countries, particularly women, and greater value to U.S. consumers, particularly lower-income Americans, on products they need and want.

Importance of Preference Programs to U.S. Retailers

Retailers source the globe for the consumer products they sell to their customers. Retailers are also experiencing the most challenging time for their businesses in decades as U.S. consumers become increasingly price-conscious due to the adverse impact the current economic climate has had on jobs, housing prices, and incomes.

For better or for worse, U.S. government policies, rules, and programs play an important role in retail sourcing decisions and strategies. While the weight of each factor varies with the retailer, in general, retailers look at a number of criteria in deciding who will supply the products they sell – ability to meet product quality and quantity specifications within a target price point, reliability in meeting order deadlines, compliance with codes of conduct, and (landed-duty (i.e., overall) cost. While cost is not usually the only factor driving sourcing decisions, it is an increasingly important consideration as competition for the consumer dollar among retailers has become more intense. In addition, U.S. tariffs are quite high for many consumer goods sold by retailers, notably apparel (15.8 percent trade-weighted average non-preferential tariffs), glassware (14.2 percent), footwear (10.4 percent) and bicycles (9.8 percent), to name a few. Preference programs can contribute significantly to lowering some portion of the overall cost by eliminating the tariffs, particularly as many high-tariff consumer goods are typically those that developing countries are most able to produce.

Retailers make use of every U.S. preference program offered, however, the industry's enthusiasm for these programs varies depending on how "business friendly" and easy to use the program is. From a retail/importer perspective, GSP has a very workable rule of origin and applies to most developing countries. However, GSP does not cover products of major importance to retailers, including apparel and footwear. AGOA, CBTPA, and ATPDEA cover apparel and footwear; however, these programs have much more complicated rules of origin that are more difficult to administer and raise compliance costs, thereby discouraging many retailers from using them. Each of these programs also expires periodically, which creates unpredictability for sourcing plans, which is costly to retailers who must maintain complicated supply chains and make long-range business decisions in a just-in-time environment.

While Congress approved a two-year extension of the CBTPA and HOPE preference programs as part of the 2008 farm bill, GSP and the ATPDEA expire on December 31, 2009, after a short-term extension. NRF and the retail industry have consistently advocated long-term renewals of these programs, and, most immediately, for renewal before the expiration date. In addition, based upon our long experience with these programs, we would like to suggest ways they all could be improved.

How to Make Preference Programs Better

Notwithstanding their benefits, the preference programs have several flaws that prevent them from fully achieving their goal of assisting developing countries to integrate and engage more successfully in the world economy. Therefore, we endorse efforts in Congress to ensure that our trade preferences operate more effectively for both beneficiary countries and U.S. users of the programs, who are an essential component to their success.

First, the preference programs share one major problem that we have frequently discussed regarding the free trade agreements. There are simply too many programs with too many separate, and in some instances, complicated rules. In addition, these programs are temporary and require periodic reauthorization with the recurring challenge of securing sufficient offsets under Congressional budget rules. These problems create inefficiencies, added costs, and unpredictability that can become significant disincentives to using the programs.

To correct this problem, the current programs need to be consolidated into one permanent program with one set of simple and easily-administered origin rules. To this end, we recommend adoption of the current GSP rules that determine origin based on substantial transformation plus 35 percent value added.

Another problem with the preference programs is that many of the poorest countries lack the ability to take full advantage of the benefits they have been provided due, in part, to inadequate infrastructure, inability to obtain investment capital, limited access to raw materials and other inputs, and a low-skilled and poorly-trained workforce. In many instances, the duty preferences are simply not enough to overcome these substantial hurdles, which impose sizable costs on U.S. companies seeking to do business in those countries. Therefore, capacity building and trade financing are essential elements in any successful effort to assist developing countries and allow them to take advantage of the benefits they have been provided.

We caution, however, that reducing or eliminating preferences for certain more advanced developing countries, such as India and Brazil, will not result in any significant shift in preferential trade to the least developed countries. Instead, that trade will move either to China or other more advanced developing countries, such as Turkey. In addition, such action would be very disruptive and costly to the business operations of U.S. companies that have relied on program.

Finally, it is essential to expand product coverage, particularly on products such as apparel and footwear, that developing countries are most capable of making, but are

still subject to substantial U.S. tariffs.[1] In most instances, these products are already imported to a significant degree, and the largest supplier is China. Making these products eligible for duty-free treatment would assist developing countries to gain a stronger foothold in the U.S. market and compete more effectively for business in the global economy. Continuing to exclude these products will not protect U.S. manufacturers from import competition, will limit retail sourcing options beyond China, and will hinder achieving the development goals of our preferences regime.

We have learned much, both good and bad, from the many preference programs the United States has extended to developing countries since 1974. In contemplating how U.S. preference programs could be revised, we should aim to keep the good and jettison the bad.

Among the "good" lessons, we know that many U.S. duties present significant cost hurdles to importing products from any country, but particularly least developed countries, and programs that eliminate those duties do encourage trade with the beneficiary countries. We know that those costs savings, creating business for poor countries, also get passed down to the final prices of the goods retailers sell.

The "bad" lessons include restrictions inserted into the preference programs, typically to appease the protectionist objectives of some domestic industry that feels threatened by import competition. These restrictions make sourcing from developing countries under a preference program difficult for importers as well as developing country exporters, as they require a sophisticated technical knowledge of the rules of origin that many do not have, and the risk of exposure to legal and financial penalties for even small mistakes. Examples include the "yarn forward" rule of origin in the original version of AGOA that made sourcing apparel from sub-Saharan Africa nearly impossible and necessitated the addition of exceptions to that rule to ensure that this initiative could actually promote trade in these products.

Other, more sweeping restrictions include the exclusion from GSP benefits of broad categories of products that just happen to be those goods that least developed countries are most competitive at making. Apparel and footwear are two significant examples. The conclusion is that the value and commercial viability of market access is directly dependent on what the rules are – bad rules that are overly complicated and restrictive kill trade; good rules that are consistent with how companies actually conduct business and manage their supply chains will promote trade and investment.

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[1] Some of the largest trade barriers imposed by the United States are on consumer goods imported from least developed countries. For example, three high-tariff products that are produced mainly in LDCs – footwear, textiles and apparel – account for only 7 percent of U.S. trade, but fully one half of all duties collected by customs. Not only do these trade barriers hurt the economies and workers in some of the poorest countries in the world, but the assessed duties are highly regressive, falling most heavily on poor Americans.

Another significant problem associated with current trade preference programs is their temporary nature. Congress must pass legislation authorizing these programs, which typically has an expiration date. Lead-times for retailers from the time a product is ordered to the time it arrives on a store shelf are typically six to nine months. Therefore, as a preference program expiration date approaches and the ability of Congress to pass a timely extension becomes questionable, retailers and others are forced to make alternative sourcing plans. This disruption becomes yet another disincentive to using these programs.

Thus, the chief goal of preference programs – poverty reduction through increased trade – is frustrated by product restrictions and narrow rules of origin in current U.S. preference programs, and by their temporary nature. We should not make the same mistakes with any changes Congress contemplates to our preference programs.

NRF appreciates the opportunity to comment on U.S. preference programs and looks forward to working with the Committee on any legislative initiatives it may take to improve the operation of these programs. Should you have any questions please contact me at (202) 626-8104 or by e-mail at autore@nrf.com.

Sincerely,

Erik O. Autor

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Vice President, Int'l Trade Counsel

cc: The Honorable Kevin Brady (R-TX), Ranking Member
The Honorable John S. Tanner (D-TN)
The Honorable Chris Van Hollen (D-MD)
The Honorable Jim McDermott (D-WA)
The Honorable Richard E. Neal (D-MA)
The Honorable Lloyd Doggett (D-TX)
The Honorable Earl Pomeroy (D-ND)
The Honorable Bob Etheridge (D-NC)
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