

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP): Initiation of a Review To Consider the Designation of Azerbaijan as a Beneficiary Developing Country Under the GSP

AGENCY: Office of the United States Trade Representative.

ACTION: Notice and solicitation of public comment with respect to the eligibility of Azerbaijan for the GSP program.

SUMMARY: This notice announces the initiation of a review to consider the designation of Azerbaijan as a beneficiary developing country under the GSP program and solicits public comment relating to the designation criteria. Comments are due on December 10th, 2004 in accordance with the requirements for submissions, explained below.

ADDRESSES FOR SUBMISSIONS: Submit comments by electronic mail (e-mail) to: FR0440@ustr.gov. For assistance or if unable to submit comments by e-mail, contact the GSP Subcommittee, Office of the United States Trade Representative; USTR Annex, Room F-220; 1724 F Street, NW., Washington, DC 20508 (Tel. 202-395-6971).

FOR FURTHER INFORMATION CONTACT: Contact the GSP Subcommittee, Office of the United States Trade Representative; USTR Annex, Room F-220; 1724 F Street, NW., Washington, DC 20508 (Telephone: 202-395-6971, Facsimile: 202-395-9481).

SUPPLEMENTARY INFORMATION: The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) has initiated a review in order to make a recommendation to the President as to whether Azerbaijan meets the eligibility criteria of the GSP statute, as set out below. After considering the eligibility criteria, the President is authorized to designate Azerbaijan as a beneficiary developing country for purposes of the GSP.

Interested parties are invited to submit comments regarding the eligibility of Azerbaijan for designation as a GSP beneficiary developing country. Documents not submitted in accordance with the below instructions might not be considered in this review. If unable to provide submissions by e-mail, please contact the GSP Subcommittee to arrange for an alternative method of transmission.

Eligibility Criteria

The trade benefits of the GSP program are available to any country that the President designates as a GSP "beneficiary developing country." In

designating countries as GSP beneficiary developing countries, the President must consider the criteria in sections 502(b)(2) and 502(c) of the Trade Act of 1974, as amended (19 U.S.C. 2462(b)(2), 2462(c)) ("the Act"). Section 502(b)(2) provides that a country is ineligible for designation if:

1. Such country is a Communist country, unless—

(a) The products of such country receive nondiscriminatory treatment, (b) Such country is a WTO Member (as such term is defined in section 2(10) of the Uruguay Round Agreements Act) (19 U.S.C. 3501(10)) and a member of the International Monetary Fund, and (c) Such country is not dominated or controlled by international communism.

2. Such country is a party to an arrangement of countries and participates in any action pursuant to such arrangement, the effect of which is—

(a) To withhold supplies of vital commodity resources from international trade or to raise the price of such commodities to an unreasonable level, and (b) To cause serious disruption of the world economy.

3. Such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce.

4. Such country—

(a) Has nationalized, expropriated, or otherwise seized ownership or control of property, including patents, trademarks, or copyrights, owned by a United States citizen or by a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, (b) Has taken steps to repudiate or nullify an existing contract or agreement with a United States citizen or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of property, including patents, trademarks, or copyrights, so owned, or (c) Has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property, including patents, trademarks, or copyrights, so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) Prompt, adequate, and effective compensation has been or is being made to the citizen, corporation, partnership, or association referred to above, (ii)

Good faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or the country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or (iii) A dispute involving such citizen, corporation, partnership, or association over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and the President promptly furnishes a copy of such determination to the Senate and House of Representatives.

5. Such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association which is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute.

6. Such country aids or abets, by granting sanctuary from prosecution to, any individual or group which has committed an act of international terrorism or the Secretary of State makes a determination with respect to such country under section 6(j)(1)(A) of the Export Administration Act of 1979 (50 U.S.C. Appx. section 2405(j)(1)(A)) or such country has not taken steps to support the efforts of the United States to combat terrorism.

7. Such country has not taken or is not taking steps to afford internationally recognized worker rights to workers in the country (including any designated zone in that country).

8. Such country has not implemented its commitments to eliminate the worst forms of child labor.

Section 502(c) provides that, in determining whether to designate any country as a GSP beneficiary developing country, the President shall take into account:

1. An expression by such country of its desire to be so designated;

2. The level of economic development of such country, including its per capita gross national product, the living standards of its inhabitants, and any other economic factors which the President deems appropriate;

3. Whether or not other major developed countries are extending generalized preferential tariff treatment to such country;

4. The extent to which such country has assured the United States that it will

provide equitable and reasonable access to the markets and basic commodity resources of such country and the extent to which such country has assured the United States that it will refrain from engaging in unreasonable export practices;

5. The extent to which such country is providing adequate and effective protection of intellectual property rights;

6. The extent to which such country has taken action to—

(a) Reduce trade distorting investment practices and policies (including export performance requirements); and (b) Reduce or eliminate barriers to trade in services; and

7. Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights. Note that the Trade Act of 2002 amended paragraph (D) of the definition of the term “internationally recognized worker rights,” which now includes: (A) The right of association; (B) the right to organize and bargain collectively; (C) a prohibition on the use of any form of forced or compulsory labor; (D) a minimum age for the employment of children and a prohibition on the worst forms of child labor as defined in paragraph (6) of section 507(4) of the Act; and (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

Requirements for Submissions

Comments must be submitted to the Chairman of the GSP Subcommittee, Trade Policy Staff Committee. Comments, in English, must be received no later than 5 p.m. on December 10th, 2004.

In order to facilitate prompt consideration of submissions, USTR strongly urges and prefers electronic mail (e-mail) submissions in response to this notice. Hand delivered submissions and facsimile submissions will not normally be accepted.

Persons who make submissions by e-mail should not provide separate cover letters or messages in the message area of the e-mail; information that might appear in any cover letter should be included directly in the attached file containing the submission. The name and organization of the submitter, address, telephone, facsimile and e-mail address, should be included in the attached file itself.

The e-mail submissions should be single copy submissions in English with the total submission, including attachments, not to exceed 50 double-

spaced, standard-size pages (8½ × 11 inch) in 12 point type as a digital file, not exceeding 1 megabyte in size, attached to an e-mail transmission.

Persons making submissions by e-mail should use the following subject line: “Azerbaijan GSP Eligibility Review.” Documents must be submitted, in English, as either WordPerfect (“.WPD”), MSWord (“.DOC”), or text (“.TXT”) files. Documents shall not be submitted as electronic image files or contain large imbedded images (for example, “.JPG”, “.PDF”, “.BMP”, “.TIF”, or “.GIF”), as these types of files are generally excessively large.

Any supporting documentation submitted as spreadsheets is acceptable as Quattro Pro or Excel, preformatted for printing on 8½ × 11 inch paper. To the extent possible, any data attachments to the submission should be included in the same file as the submission itself and not as separate files, and should not cause the entire submission to exceed the 50 page and 1 megabyte size limits.

Information and comments submitted will be subject to public inspection by appointment with the staff of the USTR Public Reading Room, except for information granted “business confidential” status pursuant to 15 CFR 2003.6. If the submission contains business confidential information, a non-confidential version of the submission must also be submitted that indicates where confidential information was redacted by inserting asterisks where material was deleted. In addition, the confidential submission must be clearly marked “BUSINESS CONFIDENTIAL” at the top and bottom of each and every page of the document.

The public version that does not contain business confidential information must also be clearly marked at the top and bottom of each and every page (either “PUBLIC VERSION” or “NONCONFIDENTIAL”). Documents that are submitted without any marking might not be accepted or will be considered public documents.

For any document containing business confidential information submitted as an electronic attached file to an e-mail transmission, the file name of the business confidential version should begin with the characters “BC-”, and the file name of the public version should begin with the characters “P-”. The “P-” or “BC-” should be followed by the name of the submitter.

Public versions of all documents relating to this review will be available for review approximately 30 days shortly after the due date by appointment in the USTR public reading room, 1724 F Street NW.,

Washington, DC. Appointments may be made from 9:30 a.m. to noon and 1 p.m. to 4 p.m., Monday through Friday by calling (202) 395-6186.

H.J. Rosenbaum,

Acting Executive Director GSP; Acting Chairman, GSP Subcommittee of the Trade Policy Staff Committee.

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Aviation Proceedings, Agreements Filed the Week Ending October 22, 2004

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. Sections 412 and 414. Answers may be filed within 21 days after the filing of the application.

Docket Number: OST-2004-19457.

Date Filed: October 20, 2004.

Parties: Members of the International Air Transport Association.

Subject: CTC COMP 0505 dated 22 October 2004, Mail Vote 416, Special Cargo Amending Resolution, Add-On Resolution r1-r2, Minutes: CTC COMP 0504 dated 15 October 2004, Intended effective date: 1 February 2005.

Docket Number: OST-2004-19459.

Date Filed: October 20, 2004.

Parties: Members of the International Air Transport Association.

Subject: PTC2 EUR0 586 dated 22 October 2004, PTC2 Within Europe Expedited Resolutions r1-r12, Intended effective date: 1 December 2004.

Docket Number: OST-2004-19475.

Date Filed: October 22, 2004.

Parties: Members of the International Air Transport Association.

Subject: Mail Vote 417, PTC COMP 1197 dated 22 October 2004, Resolution 010a—Special Passenger Amending, Resolution r1-r2, Intended effective date: 1 November 2004.

Andrea M. Jenkins,

Program Manager, Federal Register Liaison.
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