TRADE PREFERENCES ACT OF 2008 (H.R. 5264)

EXTENSION OF CRITICAL TRADE PREFERENCE PROGRAMS

U.S. trade preference programs with the Andean countries, the Caribbean Basin countries, and the countries covered by the Generalized System of Preferences have played an important role in U.S. trade and development efforts for decades, creating new economic opportunities and jobs in poor countries and in the United States. H.R. 5264 extends each of these programs until September 30, 2010 to provide predictability and stability to businesses and workers who depend on the programs and to provide the Committee with a two-year period to engage in a comprehensive review of U.S. trade preferences.

1. THE ANDEAN PREFERENCE PROGRAM

The Andean trade preference program provides duty-free treatment to certain exports from Bolivia, Colombia, Ecuador and Peru. The original Andean Trade Preference Act (ATPA) was passed in 1991, and was extended and expanded in 2002 by the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

The program is designed to assist the Andean countries in their economic development and provide legal economic alternatives to cultivation and production of illicit drugs. According to some estimates, as many as 2 million jobs may be dependent on ATPA in the Andean region. Secretary Rice has noted that “there is a strong possibility that thousands of [these] jobs will be lost to Asia, possibly China,” if the programs are not renewed.

ATPA/ATPDEA expire on February 29, 2008.

2. THE CARIBBEAN PREFERENCE PROGRAM

The Caribbean trade preference program provides benefits to certain exports from countries in the Caribbean Basin region. The original Caribbean Basin Initiative (CBI) was passed in 1983, and was expanded and made permanent in 1990. The Caribbean Basin Trade Partnership Act (CBTPA) further expanded CBI by extending duty-free treatment to a critical group of products previously ineligible for CBI preferences (most notably certain apparel). As a result of CBTPA, exports from the region increased 157% from 2001-2005. CBI has also opened new doors for U.S. businesses, helping make the Caribbean the 10th largest market for U.S. exports in the world.

CBTPA expires on September 30, 2008.

3. THE GENERALIZED SYSTEM OF PREFERENCES

The Generalized System of Preferences (GSP), in effect since 1976, is the basis for all U.S. trade preference programs. The program provides preferential treatment for 4,650 products from 144 developing countries, including 43 least-developed countries. Beneficiaries include countries like Bangladesh, where almost half of the population lives below the national poverty line. GSP is equally vital for U.S. businesses, which depend on the raw materials and components that account for more than two-thirds of GSP imports.

GSP expires on December 31, 2008.

IMPROVEMENTS TO AGOA

In addition to extending the three preference programs, H.R. 5264 also makes critical, time-sensitive improvements to the African Growth and Opportunity Act (AGOA). These changes are needed to preserve existing jobs in AGOA countries and to preserve sourcing options for U.S. importers. They do not negatively impact U.S. textile and apparel producers or exports.

1. ABUNDANT SUPPLY

H.R. 5264 repeals an "abundant supply" requirement that restricts least-developed AGOA countries' ability to use AGOA's flexible apparel rule of origin (the so-called "third country fabric" rule, which provides duty-free treatment to apparel assembled in a least-developed AGOA country regardless of the source of the fabric). The "abundant supply" provision, which was passed in December 2006, requires that if a fabric is found to be "commercially available" in Africa, AGOA beneficiaries must use the African fabric. The December 2006 amendment also "deemed" certain denim to be "commercially available."

The denim restriction, and the potential for additional restrictions, have created uncertainty for AGOA apparel producers and U.S. retailers and have resulted in lost jobs, trade and investment in AGOA countries. For example, AGOA's largest apparel exporting country, Lesotho, has already lost approximately 5,000 apparel jobs.

2. MAURITIUS

H.R. 5246 reinstates Mauritius' eligibility to use the program's "third-country fabric" provisions. Mauritius' designation lapsed in September 2005, contributing to a dramatic decline in apparel exports to the United States from Mauritius, as many garment factories shut down operations in Mauritius and moved to Asia.

IMPROVEMENTS TO GSP

H.R. 5264 amends GSP to avoid the diversion of trade from GSP beneficiary developing countries to non-GSP beneficiaries (like China) under the operation of certain recently-added "competitive need limitation" (CNL) provisions. These provisions, added in December 2006, require the President to revoke GSP preferences once a country's exports of a given product exceed certain "competitiveness" thresholds.

The aim of the December 2006 provisions, reportedly, was to help spread the benefits of GSP to smaller developing countries. However, the provisions did not require any consideration of whether revocation of preferences would benefit lesser developed countries. And, in practice, the provisions have operated to the benefit of non-beneficiary countries rather than poorer beneficiary countries (e.g., after revocation of GSP preferences, auto parts production in the Philippines migrated to China).

H.R. 5264 addresses this situation by requiring the U.S. International Trade Commission (ITC) to determine whether revocation of preferences will help other developing GSP beneficiary countries, as well as evaluate the impact that revocation of the preferences would have on exporting industries and workers in the affected countries.