

May 16, 2007

Honorable Max Baucus  
Chairman  
Senate Committee on Finance  
Hart Senate Building  
Room 511  
Washington, DC 20510

Honorable Charles Grassley  
Ranking Member  
Senate Committee on Finance  
Hart Senate Building  
Room 135  
Washington, DC 20510

Dear Chairman Baucus and Ranking Member Grassley:

We applaud your commitment to continue reviewing trade preference programs to identify areas for improvement. As you review these programs, we encourage Congress to consider improvements that will help level the playing field for U.S. farmers.

It is in the spirit of improving these programs that we offer our views on the Generalized System of Preferences (GSP) program, particularly with an eye toward strengthening criteria such as a recipient country's competitiveness in the agricultural sector, the enforcement of intellectual property rights and the elimination of non-tariff trade barriers that are not predicated upon sound science.

Scheduled to expire at the end of 2008, the GSP program is a unilateral grant of tariff concessions offered by the United States. We believe that it is critical that the obligations placed on beneficiary countries be strictly enforced.

It is clear that certain GSP beneficiary countries have well-developed agricultural sectors of their economies. Production of soybeans and cotton -- two of the major crop sectors that agricultural biotechnology tools have benefited -- has increased dramatically in several of the GSP recipient countries. For example, over the past decade, Brazil has become one of the top global competitors in soybean production and last year, Brazil surpassed the United States in total soybean export volume to become the world's largest exporter of soybeans. However, because Brazil's exports are global in nature rather than primarily to the United States, the existing competitive need limit criteria are not reached. When GSP recipient countries become such dominant players in the global market, we believe this should be taken into consideration during the annual review process for GSP benefits and by considering additional competitive need limit criteria.

We also believe there is the need for more vigorous exercise of the current statutory authority under GSP to ensure that beneficiary countries are in strict compliance with the other eligibility criteria. To this end, we believe that current GSP annual review of country compliance with eligibility standards, as well as a review of product eligibility, can be improved and strengthened. The reality is that countries face very few, if any, consequences for violations of the eligibility criteria. This has clearly been the case with regard to intellectual property rights protection.

The ability of technology providers to significantly invest in research and development to bring new tools to farmers is predicated on their ability to obtain and enforce intellectual property rights. Equally important, our U.S. farmer customers should be protected from competing with nations that allow the use of illegally pirated products. Many of our trading partners currently do not allow for the patenting of key agricultural inventions and of those that do, many do not adequately enforce the protection of those patents. Comprehensive intellectual property protection will allow for greater access to agricultural biotechnology tools and less flexible eligibility criteria would result in greater compliance with the intellectual property protection requirements of GSP recipient countries.

In determining whether developing countries are eligible for preferential treatment under the GSP program, it is essential for the U.S. Government to ensure that these countries are protecting the intellectual property rights of agricultural biotechnology products. First, it is critically important that GSP countries have laws in place that offer adequate protection for intellectual property of agricultural biotechnology products. Second, GSP countries should allocate the appropriate resources to ensure timely consideration of patent applications under those laws. U.S. companies and growers could be put at significant disadvantage if products are merely protected under a patent pending status, which would leave weak enforcement options. Third, GSP countries should vigorously enforce intellectual property of agricultural biotechnology products and in a meaningful and robust way, actively combat piracy in their countries.

Failure of GSP countries to address the act of pirating agricultural biotechnology products places U.S. farmers at a competitive disadvantage when farmers in other countries pirate the technology because their countries do not enforce the patent protection on those seeds and traits. It is inconsistent with U.S. policy and unfair to U.S. farmers to reward these countries by extending preferential treatment in tariff reductions.

This issue is particularly salient with America's soybean, cotton and corn producers. According to 2006 USDA statistics, approximately 89 percent of soybeans, 83 percent of cotton and 61 percent of corn grown domestically in the United States are produced through agricultural biotechnology. These very crops are also grown using these same technologies, under conditions which allow growers to use pirated versions in numerous GSP recipient countries.

Furthermore, in the global marketplace, a number of the GSP recipient countries, including Argentina, Brazil and India, are extremely advanced and competitive in cotton and soybeans.

While we believe that conducting a more comprehensive review to more accurately gauge the progress a GSP recipient might make on enforcing intellectual property rights is important, we also believe it would be helpful to harmonize other mechanisms the U.S. government utilizes to review IP enforcement as well as creating more consequences for poor performance in intellectual property enforcement.

Lastly, perhaps the extension of GSP benefits provides an opportune time to examine whether the countries in question have erected non-tariff trade barriers or engage in compulsory pricing schemes that negatively impact U.S. farmers and ranchers. As more countries lower their tariff rates for agricultural products, there will undoubtedly be a significant increase in the utilization

of non-tariff trade barriers to block U.S. agricultural exports. A proactive way to address these issues could directly link the benefits of GSP to the goal of reducing the use of non-tariff trade barriers.

In closing, we believe the GSP program must be strengthened to focus upon the statutory obligations of which recipient countries must comply. We support focusing more closely a recipient's overall competitiveness in the agricultural sector, on intellectual property protection of seeds and biotechnology traits and the reduction of non-tariff trade barriers and compulsory pricing schemes in agriculture. We also support the removal of GSP benefits to these countries when it is clear they have failed to adequately address these criteria through a robust, review of GSP countries.

Thank you for your consideration of our views as you continue to review the GSP program.

Sincerely,

American Soybean Association

National Corn Growers Association

National Cotton Council

Biotechnology Industry Organization

Monsanto Company