

United States Senate

WASHINGTON, DC 20510

October 30, 2019

The Honorable Robert E. Lighthizer
U.S. Trade Representative
600 17th Street, NW
Washington, D.C. 20508

Dear Ambassador Lighthizer:

On October 24, 2019, *The Washington Post* published a news report titled “White House delayed Ukraine trade decision in August, a signal that U.S. suspension of cooperation extended beyond security funds,”¹ which indicated that decisions regarding Ukraine’s eligibility for trade benefits under the Generalized System of Preferences (GSP) may have been tied to the inappropriate pressure on Ukraine by President Trump, including the withholding of military and security aid, to force that country into initiating an investigation of Hunter Biden. It would raise grave concerns both domestically and internationally if U.S. trade policy were used as a bargaining chip to achieve partisan political ends. We therefore request further information regarding decisions about Ukraine’s status as a GSP beneficiary.

Since it was first authorized in the Trade Act of 1974, the GSP program has been a critical tool for trade and international development. GSP beneficiary countries must meet certain eligibility requirements, such as respecting U.S. intellectual property rights and upholding internationally recognized worker rights. In exchange, the GSP program allows certain imports from these countries to enter the United States duty-free. This market access helps less developed nations grow and diversify their economies through increased trade while protecting U.S. trade interests in the countries that are designated as beneficiaries. To ensure that GSP remains an effective and legitimate program that encourages countries to adopt fair trade practices, it is imperative that decisions about beneficiary countries’ eligibility follow a transparent, accountable process that is free from partisan political considerations.

The GSP authorizing statute includes both mandatory eligibility requirements and discretionary criteria that the President must consider when determining whether to designate a country as a GSP beneficiary. To ensure that beneficiaries are continuing to meet eligibility criteria, a committee led by the U.S. Trade Representative (USTR) conducts annual reviews and accepts review petitions from stakeholders, which may result in a recommendation that the President take action with respect to a country’s GSP status. In the event that a beneficiary country falls out of compliance with these eligibility criteria, the President has authority to withdraw, suspend, or

¹ “White House delayed Ukraine trade decision in August, a signal that U.S. suspension of cooperation extended beyond security funds,” *Washington Post* (October 24, 2019), https://www.washingtonpost.com/business/economy/white-house-delayed-ukraine-trade-decision-in-august-a-signal-that-us-suspension-of-cooperation-extended-beyond-security-funds/2019/10/24/a42b8992-f67d-11e9-8cf0-4cc99f74d127_story.html.

limit that country's access to duty-free treatment under GSP. We commend USTR for institutionalizing a rigorous process for reviewing beneficiaries' compliance and for undertaking a number of country reviews in recent years. These efforts help ensure that beneficiaries are held accountable to Congressional objectives and that the GSP program is functioning as Congress intended.

In 2012, upon petition by the International Intellectual Property Alliance (IIPA), USTR began a review of Ukraine's GSP status to determine if Ukraine was out of compliance with the criterion stating that beneficiaries should "provid[e] adequate and effective protection of intellectual property rights." Following this review, on December 22, 2017, President Trump issued a proclamation suspending duty-free treatment under GSP with respect to certain Ukrainian imports, including agricultural and consumer products. The suspension became effective on April 26, 2018.

According to *The Washington Post*, Ukraine passed legislation to address some of the United States' intellectual property concerns, and USTR subsequently recommended to President Trump that, in recognition of these efforts, he restore duty-free treatment for some of the goods removed from GSP in the December 2017 proclamation. The *Post* reports that USTR withdrew this recommendation in late August 2019 "after John Bolton, then-national security adviser, warned [USTR] that President Trump probably would oppose any action that benefited the government in Kyiv." The withdrawal of the recommendation to restore Ukraine's trade benefits occurred at the same time that the President was withholding military and security aid for Ukraine until that country would publicly agree to investigate the Biden family. After submitting the Ukraine recommendation to President Trump a second time in early October 2019, USTR again withdrew it on October 17. Finally, on October 25, one day after the publication of the *Washington Post* report that raised questions about the GSP decision-making process, President Trump issued a proclamation restoring duty-free treatment for some Ukrainian imports under the program.

As the Ranking Members of the Senate Committee on Finance and the Senate Committee on Foreign Relations, we have an obligation to ensure that U.S. trade and foreign policy is conducted in the best interest of the United States and for legitimate purposes. To that end, we request that you respond to the following:

1. Please provide a timeline of all actions taken by the Administration with respect to Ukraine's status as a GSP beneficiary.
2. What was USTR's rationale for recommending the restoration of certain GSP benefits for Ukraine in early summer 2019? Why did USTR withdraw this recommendation in August 2019?
3. Why did USTR resubmit the Ukraine GSP recommendation in early October 2019, and why did USTR withdraw it for a second time on October 17?
4. Did USTR submit its recommendation a third time before the President restored certain GSP benefits for Ukraine on October 25, 2019? Did USTR discuss this action with the

President before he issued the proclamation?

5. Did former national security adviser John Bolton, his agent, or any other Administration official direct, recommend, or suggest that USTR withdraw the Ukraine GSP recommendation in August or October 2019 or any other time? If so, did Mr. Bolton or other official indicate why the President would oppose the restoration of certain GSP benefits to Ukraine?
6. Did President Trump ever ask you to convey to President Volodymyr Zelensky, other Ukrainian officials, or any other individuals, President Trump's desire for assistance in investigating one of his political opponents or their family members, or unsubstantiated theories related to Ukraine's involvement in the 2016 U.S. election? Did you ever convey such a request? If so, please describe the circumstances of that exchange.
7. Did you or any personnel in the USTR office meet with President Trump's personal agent Rudy Giuliani to discuss the U.S. trade relationship with Ukraine? If so, when and where did that discussion take place?
8. Did you or any personnel in the USTR office meet with U.S. Ambassador to the European Union Gordon Sondland to discuss the U.S. trade relationship with Ukraine? If so, when and where did that discussion take place?

Please respond to the above questions no later than November 4. Thank you for your attention to this important matter.

Sincerely,



Ron Wyden
Ranking Member
Senate Committee on Finance



Robert Menendez
Ranking Member
Senate Committee on Foreign Relations