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March 25, 2010

**PUBLIC DOCUMENT**

**Product:** Other parts, nesi, suitable for use solely or principally with the machines in heading 8501 or 8502

**HTS Subheading:** 8503.00.95

**Country:** Brazil

**Requested Action:** In Support of Redesignation to GSP eligibility

**Comments submitted by:** GE Energy, a division of General Electric Corporation

***Via [www.regulations.gov](http://www.regulations.gov)***  
***Docket No.: USTR-2010-0009***

Mr. Seth Vaughn  
Acting Chairman  
Generalized System of Preferences Subcommittee  
Office of the U.S. Trade Representative  
1724 F Street, NW, Room F-220  
Washington, DC 20508

**RE: 2009 GSP Redesignation Request for HTS 8503.00.95 from Brazil**

Dear Mr. Vaughn:

The following comments are submitted on behalf of GE Energy, a division of the General Electric Company ("GE Energy")<sup>1</sup> in response to the notice appearing in the *Federal Register* on March 5, 2010, inviting comments regarding redesignations for duty-free status under the Generalized System of Preferences ("GSP") program of articles currently subject to Competitive Need Limitations ("CNL").<sup>2</sup> GE Energy is seeking redesignation of GSP duty-free status for imports of wind turbine structural components classified under HTS 8503.00.95 from Brazil.

<sup>1</sup> GE Energy is a U.S. importer of a variety of energy products and wind turbine components, which include the products of Brazil, which are the subject of these comments. GE's headquarters are located at 3115 Easton Turnpike, Fairfield, CT 06828.

<sup>2</sup> See Generalized System of Preferences (GSP): Import Statistics Relating to Competitive Need Limitations (CNLS); Invitation for Public Comment on CNL Waivers Subject to Potential Revocation



## **I. INTRODUCTION**

The products from Brazil that are the subject of these comments are classified under subheading 8503.00.95 of the Harmonized Tariff Schedule of the United States: Other parts, nesi, suitable for use solely or principally with the machines in heading 8501 or 8502. GE Energy imports other parts of generators and components generator sets classified under HTS 8503.00.95 such as structural bedplates and generators frames. These parts are used in the production and manufacture of wind turbine systems in the United States.

For the reasons discussed herein GE Energy strongly supports redesignation of HTS 8503.00.95, which includes wind turbine structural components from Brazil. Reinstatement of the duty-free treatment under GSP benefits U.S. economic interests, U.S. energy consumers, promotes vital national security and environmental policy and is consistent with the express purpose and mandate of the Generalized System of Preferences ("GSP") statute and program.

## **II. IMPORTS OF WIND TURBINE STRUCTURAL COMPONENTS ARE ELIGIBLE FOR REDESIGNATION**

Wind turbine structural components from Brazil, classified in HTS subheading 8503.00.95, which had previously been removed from GSP eligibility based on competitive need limitations ("CNL") are, in accordance with the statute, eligible for redesignation based upon 2009 calendar year import data. Under section 503(c)(2)(C) of the Trade Act of 1974 (the "Act"), 19 U.S.C. § 2463(c)(2)(C), if imports of an eligible article from a BDC cease to receive duty-free treatment due to exceeding a CNL in a prior year, the President may, subject to the considerations in sections 501 and 502 of the Act, redesignate such an article for duty-free treatment if imports in the most recently completed calendar year did not exceed the CNL.

Imports of HTS 8503.00.95, which includes wind turbine structural components from Brazil totaled \$27,368,685 in 2009 and accounted for 2.8% of total imports.<sup>3</sup> Brazilian imports of HTS 8503.00.95 were well below the statutory CNL limits set forth at section 503(c)(2)(A) of the Trade Act of 1974, as amended, 19 U.S.C. § 2463(c)(2)(A). Subject imports had an appraised value that was below the applicable amount for 2009 (\$140 million), and accounted for less than 50% of total U.S. imports of the product from all countries, by value. Since imports of HTS 8503.00.95 from Brazil in the most recently completed calendar year, 2009, did not exceed the CNL, redesignation of this article as GSP eligible is permissible and appropriate.

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Based on New Statutory Thresholds, Possible de minimis Waivers, and Product Redesignations for the 2009 Annual Review, 75 Fed. Reg. 10,339 (USTR March 5, 2010).

<sup>3</sup> See Attachment 1.



**III.  
STATUTORY FACTORS CALL FOR THE  
REDESIGNATION OF WIND TURBINE  
STRUCTURAL COMPONENTS FROM BRAZIL**

As previously mentioned, redesignation requests are normally made in accordance with the statutory factors set forth in section 501 and 502 of the Trade Act of 1974, as amended, 19 U.S.C. §§ 2461 and 2464. These factors generally include: (1) the country's level of development; (2) its competitiveness in regard to the particular product; (3) the country's practices relating to trade, investment, and worker rights; (4) the overall economic interests of the United States, including the effect continued GSP treatment would have on the relevant U.S. producers, workers and consumers; and (5) any other relevant information.<sup>4</sup> A review of these factors will demonstrate that imports of HTS 8503.00.95, which includes wind turbine structural components from Brazil should be redesignated as duty-free under GSP.

*1. Brazil's Development Level Requires the Continuation of the GSP Program*

Brazil's designation as a beneficiary developing country ("BDC") has not changed since the inception of the GSP program and remains the appropriate designation given Brazil's level of development. While Brazil has made great progress and is becoming an important economy in Latin America, it remains a developing country with per capita income levels in the mid-range. According to the World Bank, Brazil's gross national income ("GNI") per capita for 2008 was \$7,350.<sup>5</sup> Furthermore, as of July 2009 the World Bank classified Brazil as an "upper middle income" country.<sup>6</sup> Thus, while Brazil has made progress in increasing its level of development, the data indicates that it remains appropriately designated as a BDC for purposes of the GSP program.<sup>7</sup>

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<sup>4</sup> See United States Trade Representative, U.S. Generalized System of Preferences (GSP) Guidebook at 13 (January 2010) available at [http://www.ustr.gov/webfm\\_send/1597](http://www.ustr.gov/webfm_send/1597).

<sup>5</sup> See The World Bank, Data & Statistics, Resources, available at <http://go.worldbank.org/1SF48T40L0> (last viewed, March 22, 2010).

<sup>6</sup> See The World Bank, Data & Statistics, Country Classification, available at <http://go.worldbank.org/K2CKM78CC0> (last viewed, March 22, 2010).

<sup>7</sup> The President may withdraw the application of duty-free treatment with respect to a BDC if the President determines that a BDC is a "high income" country as defined by the GSP statute and based upon World Bank statistics. See n.4, *supra*. For 2008, the most recent year available, the GNI per capita limit, which is set at the lower bound of the World Bank's definition of a "high income" country, which was \$11,905. See n.6, *supra*. Brazil's GNI per capita of \$7,350 remains well below the lower bound of the World Bank's "high income" country definition.

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## 2. Redesignation as GSP Eligible Allows Brazil to Compete with Developed Nations

As the 2009 import data demonstrates Brazil needs the benefits of GSP because it is not sufficiently developed or competitive with respect to products classified under HTS 8503.00.95. This is highlighted by the dominance of developed countries and the fact that Brazil has lost market share with respect to HTS 8503.00.95 imports since they were removed from GSP eligibility, while more developed economies have increased their U.S. market share of these products.<sup>8</sup>

U.S. Imports of HTS 8503.00 95 by Value (Import Value in US\$)								
Country	2004	2005	2006	2007	2008	Percent Change 2007 - 2008	2009	Percent Change 2008 - 2009
Mexico	170,700,952	121,501,364	121,386,249	154,928,742	179,764,837	16 03%	216,267,293	20 31%
China	71,635,876	79,890,742	150,847,441	153,799,185	229,311,995	49 10%	180,404,846	-21 33%
Canada	113,604,888	116,121,261	117,089,690	156,426,047	156,360,250	-0 04%	111,908,980	-28 43%
Japan	109,337,754	151,914,658	123,378,909	90,880,741	113,336,110	24 71%	90,527,636	-20 12%
Germany	66,078,055	106,030,113	91,479,847	144,204,622	125,900,647	-12 69%	81,816,919	-35 01%
Spain	3,759,038	23,259,298	156,840,565	193,031,828	123,094,242	-36 23%	45,492,392	-63 04%
United Kingdom	26,462,287	19,630,134	38,928,833	49,439,956	61,865,145	25 13%	44,266,689	-28 45%
France	26,476,524	27,479,950	26,480,652	29,946,097	41,019,075	36 98%	35,348,397	-13 82%
Brazil	32,377,274	143,384,255	196,486,603	304,951,796	64,866,475	-78 73%	27,368,685	-57 81%
India	3,527,996	13,352,643	33,462,160	29,553,895	34,789,040	17 71%	24,952,417	-28 28%
Denmark	26,441,430	37,691,581	43,399,973	79,952,046	46,903,944	-41 33%	19,681,025	-58 04%
Taiwan	20,071,708	28,230,295	26,362,444	19,728,074	22,061,036	11 83%	13,868,830	-37 13%
Korea	16,462,513	24,675,218	43,254,210	69,954,593	67,929,336	-2 90%	13,821,110	-79 65%
Finland	623,831	1,295,054	1,818,510	5,116,408	3,793,410	-25 86%	12,476,208	228 89%
Poland	2,903,743	10,592,336	7,775,541	6,594,196	6,082,244	-7 76%	9,815,198	61 37%
Philippines	12,701,500	14,948,002	14,894,289	16,643,245	15,628,319	-6 10%	9,470,766	-39 40%
Italy	7,148,258	25,694,166	18,806,459	13,740,906	9,251,250	-32 67%	8,571,982	-7 34%
Netherlands	6,951,014	25,813,423	11,565,271	7,572,419	12,438,220	64 26%	6,825,884	-45 12%
South Africa	736,806	1,315,130	1,218,696	2,690,799	1,364,907	-49 28%	4,093,592	199 92%
Austria	827,146	527,119	2,152,093	908,553	2,983,549	228 38%	3,398,953	13 92%
Others	29,131,668	46,074,128	57,592,482	51,570,919	42,498,481	-17 59%	28,991,823	-31 78%
<b>Total</b>	<b>747,960,261</b>	<b>1,019,420,870</b>	<b>1,285,220,917</b>	<b>1,581,635,067</b>	<b>1,361,242,512</b>	<b>-13.93%</b>	<b>989,369,625</b>	<b>-27 32%</b>
Source: U S Department of Commerce and the U S International Trade Commission								

Brazil's imports of HTSUS 8503.00.95, which includes wind turbine structural components, represent only 2.8% of total imports in 2009 and a 40% decrease from 2008 levels.<sup>9</sup> Of the eight other countries supplying more product to the U.S. market none are BDC's. Moreover, the top eight non-BDC countries account for over 80% of the imports with China and Mexico taking the largest share of the U.S. market. Furthermore, imports from non-BDC countries account for over 90% of the imports, while, imports from the eleven BDC's account for

<sup>8</sup> In 2008, Brazil's exports of HTS 8503.00.95 declined by 78.7% by value while developed nations of China, Japan, the United Kingdom and France increased exports in absolute terms, by value. This trend continued in 2009 when Brazil's exports again declined by 57%, while the non-BDC's exports of HTS 8503.00.95, either increased in absolute terms or their market share increased relative to the shrinking market.

<sup>9</sup> See Attachment 1.



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only 8% of the imports in 2009.<sup>10</sup> The import data demonstrates that the non-BDCs have increased their market share with respect to imports of HTS 8503.00.95 at the expense of BDCs, including Brazil. Redesignation of Brazil origin products in such circumstances will further the objectives of GSP.

Duty-free imports to the U.S. would also allow wind turbine structural component manufacturers, located throughout Brazil, to add value and invest in Brazil. Brazilian industrial producers of the subject products have made investments that enrich their communities by focusing on environmental practices, worker empowerment and training, safety and support of socio-cultural and economic growth. Redesignation will further assist Brazilian companies so that they may continue to make positive contributions to job creation, wages, the environment, and the general standard of living in Brazil.

### *3. Country Practices of Brazil Support Redesignation*

We note that Brazil has been the subject of a country practice petition regarding intellectual property rights, which was closed in the 2005 GSP annual review.<sup>11</sup> While Brazil was the subject of a country practices petition, it has subsequently made efforts to improve upon its protection of intellectual property rights.

### *4. Duty-Free Imports of Wind Turbine Structural Components Will Have A Beneficial Effect on the U.S.*

Even though some of the components of wind turbines are imported, including the product at issue in these comments, assembly of the wind turbine is performed in the U.S. by skilled U.S. workers. Assembly of the wind turbine takes place at GE Energy's facilities in Pensacola, Florida and Greenville, South Carolina. Allowing duty-free imports of wind turbine structural components from Brazil will increase competition and lower production costs, which could contribute to greater domestic production of wind turbines and increased U.S. skilled manufacturing jobs.

Redesignation of HTS 8503.00.95 from Brazil will further President Obama's economic and energy policy while enhancing our national security interests and environmental protections. President Obama's energy policy aims to create new jobs in the clean energy economy by strategically investing in renewable energy. In fact, President Obama outlined the potential for wind energy in a speech last April where he stated that "wind can generate as much as 20% of

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<sup>10</sup> See Attachment 1.

<sup>11</sup> See Generalized System of Preferences (GSP): Notice of Closure of Case 013-CP-05, Protection of Intellectual Property in Brazil, in the 2005 Annual Country Practice Review (USTR Jan. 13, 2006).



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our electricity by 2030 and create a quarter-million jobs in the process.”<sup>12</sup> This result, he noted, would be a “win-win . . . good for the environment; [and] great for the economy.”<sup>13</sup> Redesignating these products from Brazil as GSP eligible will decrease costs associated with production of wind turbines and therefore, aid in the implementation the President’s energy agenda. Redesignation will also benefit U.S. citizens by increasing the supply of energy, lowering energy costs, decreasing our dependence on foreign oil and reducing the environmental impact of using carbon based fuels.

As trade statistics demonstrate, Brazil’s exports of HTS 8503.00.95 to the United States do not pose a threat to the U.S. industry because they represent a small percentage of all imports of these products to the United States.

Additionally, redesignation supports the President’s National Export Initiative’s emphasis on pursuing good jobs through expanded trade with new emerging markets such as Brazil. Brazil is a major purchaser of U.S. goods and services, growth of the Brazilian economy would likely stimulate the exportation of more U.S. products to Brazil to the benefit of the U.S. economy. Brazil is the largest U.S. export market in South America.<sup>14</sup> In 2009 the United States exported goods valued at nearly \$26 billion to Brazil<sup>15</sup> representing approximately 37% of U.S. exports to South America.<sup>16</sup> The President, in recognition of Brazil’s potential for U.S. export growth, focused on deepening U.S. engagements with major emerging markets in 2009, including Brazil.<sup>17</sup> Rising economic conditions, as a result of redesignating GSP eligibility for wind turbine structural components from Brazil will increase Brazilian resident’s buying power and lead to increase demand for U.S. goods. Thus, redesignation will benefit both U.S. and Brazilian economic and environmental standards and therefore, should be granted.

#### **IV. CONCLUSION**

In conclusion, redesignation of Brazilian imports of HTS 8503.00.95 as GSP eligible will have a beneficial effect on both Brazilian and U.S. economic and environmental interests. Further, redesignation advances President Obama’s trade and energy agenda, bolsters U.S.

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<sup>12</sup> Remarks by the President on Clean Energy (April 22, 2009), *available at* [http://www.whitehouse.gov/the\\_press\\_office/Remarks-by-the-President-in-Newton-IA/](http://www.whitehouse.gov/the_press_office/Remarks-by-the-President-in-Newton-IA/).

<sup>13</sup> *Id.*

<sup>14</sup> Source: Foreign Trade Division, U.S. Census Bureau, *available at*: <http://tse.export.gov/>.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

<sup>17</sup> United States Trade Representative, 2010 Trade Policy Agenda and 2009 Annual Report at 6, *available at*: <http://www.ustr.gov/2010-trade-policy-agenda>.



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skilled manufacturing jobs and enhances our national security interests as increased production and use of wind turbines will decrease our reliance on foreign oil.

For the foregoing reasons, GE Energy respectfully requests the GSP Subcommittee to recommend that the President use his discretionary authority to redesignate HTS 8503.00.95 imports from Brazil for GSP duty-free treatment.

Sincerely,

**SANDLER, TRAVIS & ROSENBERG, P.A.**

By: /s/Larry Ordet  
Larry Ordet  
Mark Tallo

Enclosure



U.S. Imports of HTS 8503.00.95 by Value		
Country	Import Value	Percentage of Total Imports
Mexico	216,267,293	21.86%
China	180,404,846	18.23%
Canada	111,908,980	11.31%
Japan	90,527,636	9.15%
Germany	81,816,919	8.27%
Spain	45,492,392	4.60%
United Kingdom	44,266,689	4.47%
France	35,348,397	3.57%
<b>Brazil</b>	<b>27,368,685</b>	<b>2.77%</b>
India	24,952,417	2.52%
Denmark	19,681,025	1.99%
Taiwan	13,868,830	1.40%
Korea	13,821,110	1.40%
Finland	12,476,208	1.26%
Poland	9,815,198	0.99%
Philippines	9,470,766	0.96%
Italy	8,571,982	0.87%
Netherlands	6,825,884	0.69%
South Africa	4,093,592	0.41%
Austria	3,398,953	0.34%
Indonesia	3,144,767	0.32%
Romania	2,843,619	0.29%
Australia	2,749,968	0.28%
Thailand	2,629,087	0.27%
St Kitts-Nevis	2,566,227	0.26%
Switzerland	2,395,041	0.24%
Hungary	2,029,063	0.21%
Belgium	1,875,953	0.19%
Sweden	1,788,444	0.18%
Czech Republic	1,557,934	0.16%
Venezuela	1,045,000	0.11%
Slovak Republic	837,871	0.08%
Malaysia	754,148	0.08%
Israel	523,217	0.05%
Slovenia	341,683	0.03%
Hong Kong	275,389	0.03%
New Zealand	247,157	0.02%
Singapore	231,419	0.02%
Ireland	163,279	0.02%
Russia	149,415	0.02%
Ukraine	138,743	0.01%
Sri Lanka	131,130	0.01%
Norway	106,737	0.01%
Costa Rica	83,626	0.01%
United Arab Em	83,133	0.01%
Turkey	72,663	0.01%
Others	227,110	0.02%
<b>Total</b>	<b>989,369,625</b>	<b>100.00%</b>

Source: U.S. Department of Commerce and the U.S. International Trade Commission