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Generalized System of Preferences
(GSP) 2011 Annual Product and
Country Eligibility Practices Review

February 10, 2012

Mr. William Jackson
Deputy Assistant
U.S. Trade Representative for GSP & Chair,
GSP Subcommittee of the Trade Policy Staff Committee
Office of the United States Trade Representative
600 17th Street, NW
Washington, D.C. 20506

Re: Comments in Response to Notice on the American Federation of Labor & Congress of
Industrial Organizations' Worker Rights Petition Regarding the Republic of Georgia
(Case Number 001-CP-10)

Dear Mr. Chairman:

We are writing regarding the petition submitted to your offices by the American Federation of Labor & Congress of Industrial Organizations (AFL-CIO) on September 10, 2012. In their petition, AFL-CIO is requesting to remove Georgia from the list of beneficiary developing countries under the U.S. Generalized System of Preferences Program ("GSP"). This letter is filed on behalf of Felman Trading, Inc. ("Felman"). Felman is a ferroalloys trading company and an exclusive distributor of ferroalloys produced by its affiliated company Felman Production, Inc. that maintains a plant in Letart, West Virginia. Felman sells ferroalloys to metallurgical

Arent Fox

consumers in North, Central and South America. Besides having a domestic source of ferroalloys, Felman is also able to provide direct deliveries from overseas producers like Georgian Manganese LLC located in Georgia. In the same GSP Annual Review, we have petitioned to waive the Competitive Need Limit for certain ferrosilicon manganese items from Georgia (HTSUS 7202.30.00) under the GSP program. It is the position of Felman that the GSP program is a vital factor in Georgia's eventual achievement of sustained economic development and international competitiveness.

I. Statutory Factors to be considered:

The Trade Act of 1974 provides a number of factors for the President to consider when determining if a developing country should benefit from the GSP program (19 U.S.C. 2461; 19 U.S.C. 2462). Following is a listing of each statutory factor to be considered with a corresponding comment. A more extensive narrative commentary is then provided to demonstrate Georgia's continuing need for beneficiary country treatment. Please note that no single factor in the list predominates over the others. The President must give due regard to all four factors identified in section 2461 and must take into account all seven factors in section 2462. In addition, according to section 2462(d) "the President may withdraw duty-free treatment" after considering statutory factors. Therefore, withdrawal is discretionary not mandatory according to the Trade Act of 1974.

A. 19 U.S.C. 2461

1. The effect beneficiary country status will have on furthering the economic development of the country through expansion of its exports.

The narrative below provides factual and analytical evidence that Georgia is working to restructure its economy in order to achieve sustainable development and competitiveness in several sectors. GSP eligibility is a vital factor in that development program. Georgia faces many challenges in expanding trade. The major market to which Georgia has traditionally been linked is Russia. (For example, at one time nearly 100% of the Soviet Union's citrus fruits were grown in Georgia.) In 2006, Russia imposed bans on all Georgian exports of wine, fruits and vegetables, and mineral water; severed all direct transportation links; and eliminated postal service and visa issuance. Georgia has since reoriented its trade relations toward the EU, Eastern Europe, the Middle East, and North America. Georgian Exports to the U.S. in 2010 were valued at \$192,916,000. Almost half of it, \$85,984,000, received duty-free treatment under GSP in the same year.

Arent Fox

2. The extent to which other major developed countries provide similar [GSP] treatment to the country.

Georgia has been granted a GSP treatment by the following countries: the EU, the USA, Japan, Canada, Switzerland and Norway (Source:<http://www.tradewithgeorgia.com/?115/>).

3. The anticipated impact of the country's duty free imports on U.S. producers of competing products.

Since 2003, Georgian products have been eligible for GSP treatment and have entered the United States with no appreciable detrimental effect on U.S. producers. In 8 years, none of the products exceeded the competitive need limit. This 2011 Annual Review is the first time in 8 years that *ferrosilicon manganese* may exceed the percentage limit and there is a pending application in your Agency to grant a CNL waiver.

4. The extent of the country's competitiveness with respect to the eligible articles.

The narrative below explains that GSP treatment remains an important factor for Georgia's competitiveness in establishing and maintaining customers in the U.S. Such treatment simply permits Georgia to compete for sales in the U.S. market with developed-country exporters, low-wage countries such South Africa, and countries with other forms of trade preferences with the United States (e.g. free trade agreements, Andean Preference Act, Africa Growth and Opportunity Act, etc.).

B. 19 U.S.C. 2462(c)

1. The country's desire to be a beneficiary country.

Communications by the Georgian Government fulfill this factor.

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

Georgia's economic development has not yet reached levels, in a number of categories, to justify withdrawal of GSP eligibility from the country as a whole. Georgia's GDP per capita is estimated to have been \$5,400 in 2011.

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3. Whether other major developed countries extend GSP treatment to the country.

See item I.A.2. above.

4. Assurances to the U.S. from the country that it will provide equitable and reasonable access to its markets and will refrain from unreasonable export practices.

Georgia is providing equitable and reasonable access to its market and basic commodity resources. The World Bank has recognized Georgia as one of the world's fastest-reforming economies, and in 2010 ranked it as the world's 11th-easiest place to do business, an improvement from 115th in 2005 and is now in the same tier as countries such as Australia, Norway, and Japan. The World Bank's "Anti-Corruption in Transition 3" report places Georgia among the countries showing the most dramatic improvement in the struggle against corruption, due to implementation of key economic and institutional reforms, and reported reduction in the bribes paid by firms in the course of doing business.

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

Georgia is a member of WTO and WIPO and its legislation is largely in compliance with WTO requirements. The Government of Georgia pays high importance to strengthening of IPR protections in the country. In 2010, the Parliament of Georgia adopted the new Law on Design and amendments to the Patent Law of Georgia. The new Law on Design introduces mechanisms for the protection of design owner's rights. Registration of design is carried out separately from patent for a maximum for 25 years (to be renewed at 5 years intervals). In addition, a supplementary protection certificate is foreseen for pharmaceutical products, granting to the patent owner the possibility to extend patent protection up to 5 years after the expiration of a patent. Further, in 2010, the existing system of fees applied in the areas of IP was brought in compliance with the international requirements. Registration fees for IP objects are now equal for local and foreign persons as required per WTO non-discrimination requirements.

The amount of registered objects of Intellectual Property at the register of Revenue Service of the Ministry of Finance (Customs Administration of Georgia) has significantly increased. Several decisions on seizing the goods were made by customs authorities. Two cases were brought to the court and in one case the seized goods were destroyed. Special risk profiles for registered objects of intellectual property were created. These risk profiles are active in Automated System of Customs Data, through which customs control regarding IPR protection is carried out.

Arent Fox

An independent Study on Piracy and Counterfeiting in Georgia was completed in the Summer of 2010 the request of the Government of Georgia and with the support of UNDP. The purpose of this neutral third-party study was to determine the level of counterfeiting and piracy in the country. The study also enables the Georgian side to determine the areas where necessary measures are to be taken (i.e. by the Government, donors) in order to improve enforcement of IPR and minimize the share of counterfeited products on the market. A group of foreign and local independent experts undertook the Study.

6. The extent the country has acted to reduce trade distorting investment policies and practices and to reduce barriers to trade in services.

Georgia fully participates in dispute consultations conducted under WTO auspices. Georgia is also acting to fulfill its commitments, again through its membership in the WTO, to remove unreasonable export practices. The government has significantly reduced the number of licenses a business requires and introduced a "one-window" system that allows an entrepreneur to open a business relatively quickly. Strict deadlines for agency action on permits have been introduced and consent is assumed if the agency fails to act within the time limit.

7. Whether the country has taken steps to afford its workers internationally recognized worker rights.

Georgia is a member of the International Labor Organization and a signatory of several of its conventions providing for worker rights such as Minimum Age Convention and the Forced Labour Convention. With respect to core labor standards, Georgia has well-established and functional labor rights laws that provide: (a) the right of association; (b) the right to organize and bargain collectively; (c) prohibitions on the use of forced labor; (d) a minimum age for employment of children; and (e) acceptable working conditions with respect to minimum wage, hours of work and occupational safety and health (19 U.S.C. 2467).

Georgia adopted the Labour Code in 2006 replacing the Soviet style labour legislation. Everyone in Georgia has a right to set up associations including trade unions. Discrimination based on membership in any association is a subject of criminal liability.

II. The U.S.-Georgia commercial relationship would be negatively affected by Georgia's exclusion from the GSP program

The loss of GSP benefits will have highly negative effects on the competitiveness of Georgian exporters, and, therefore, the volume and value of US imports from Georgia. Continuation of GSP benefits, on the other hand, will enable Georgia's continued progress. In 2010, Georgia exported approximately \$190 million worth of products to the United States. Of this,

Arent Fox

approximately \$80 million worth of products entered the U.S. under the GSP program, including ferrosilicon manganese and copper, agricultural products such as fruit juice, mineral waters, and wine. Georgian imports are miniscule by U.S. trade standards, and yet are critical to the future of the Georgian economy. Georgia has yet to enjoy any significant success in penetrating the U.S. market and it still requires the advantage that GSP treatment offers. Without question, the U.S.-Georgia commercial relationship would be negatively affected by Georgia's exclusion from the GSP program. It would limit or curtail Georgian exports in important sectors, disrupt the distribution and retailing networks they have established in the U.S., limit the selection and price advantages currently enjoyed by the American consumer in several product lines, and harm a broad and extremely valuable pattern of bilateral cooperation between the U.S. and Georgia.

Ferroalloy, a very important sector of the Georgian economy, is at the top of the list of GSP imports from Georgia.

Georgian producers have made a significant effort to conform the quality of their ferrosilicon manganese to international standards so that U.S. consumers can be comfortable with the product's performance capabilities in a variety of applications. While GSP alone cannot serve as the difference between success and failure in competitive pricing, the margins are so thin in the sale of ferrosilicon manganese products to the U.S. that a 3.9 % tariff can quickly reverse Georgian competitiveness. Georgia is one of very few countries that can produce high grade ferrosilicon manganese. Georgian manganese ore has very low iron content: manganese content in Georgian ferrosilicon manganese may be up to 74% (standard ferrosilicon manganese has 65%). Higher concentration of manganese makes Georgian ferrosilicon manganese more efficient from an economic standpoint for steel makers, because less high-grade ferrosilicon manganese is required to produce steel compared to standard ferrosilicon manganese (65%). Therefore many U.S. steel mills have preferred to buy this product for many years and their technological processes have been adjusted accordingly.

In addition to the benefits to be enjoyed by the Georgian exporters, U.S. consumers of ferrosilicon manganese would also benefit. By waiving the tariff, U.S. consumers such as the petitioner can produce and sell steel at lower cost, thus increasing their competitiveness.

There are 3 major ferrosilicon manganese producers in Georgia. Direct (production facility) and indirect (primarily transportation) employment in this sector is approximately 8,000 people. The largest producer, Georgian Manganese LLC, has 6,150 employees. All export the same products: hi-grade ferrosilicon manganese and standard grade ferrosilicon manganese. In the event that the waiver is granted, the companies will seek to maintain export volumes and related production capacity utilization that will forestall potential lay-offs. The U.S. is a very important market for Georgian ferrosilicon manganese producers because a major amount of their exports (almost 80

Arent Fox

percent) is to the U.S. If GSP benefits were removed, it would adversely affect Georgian competitiveness, and there are few alternative markets that could quickly absorb its exports.

There are only 2 U.S. domestic producers of this product and the production capacity of these local producers is not sufficient to satisfy domestic demand. Imports are necessary.

III. Georgia is a strong strategic partner to the U.S.

Georgia has been and continues to be a strong strategic and trade partner to the United States. The strength of U.S.-Georgia relations is codified in the U.S.-Georgia Charter on Strategic Partnership, signed in January 2009. Since the signing of the Charter, the United States and Georgia have strengthened their mutual cooperation based on U.S. support for Georgia's territorial integrity and sovereignty and its commitment to further democratic reform. Withdrawal of GSP benefits for Georgia would be interpreted by the Georgian public and political establishment as an unjustified step. It would be a setback for our relationship and for any strategic partnership.

As the President has forcefully stressed with respect to achieving peace in the Middle East, and what is true worldwide is that the development and maintenance of healthy and competitive economies is one of the most effective means to support freedom and peace. GSP is one of those essential tools for U.S. trade policy that can serve this objective. It is one of the few remaining programs that tangibly demonstrates U.S. support for Georgia's economic development.

IV. Employment

The GSP program also has employment consequences. Georgia's exporters of GSP products employ many tens of thousands Georgians from all over the country. Many of them are from the depressed rural regions, such as the 8,000 persons employed in the ferroalloys trade. Conversely, given the minimal volume, Georgian export products would have insignificant, if any, employment consequences for American producers. The products simply are not in competition.

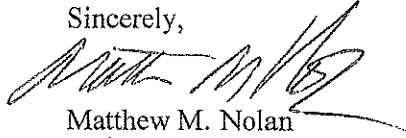
Conclusion

For the foregoing reasons, Felman respectfully requests that the President reject the AFL-CIO petition, and instead maintain the Republic of Georgia as an eligible beneficiary developing country under the Generalized System of Preferences.

Mr. William Jackson
February 10, 2012
Page 8

Arent Fox

Sincerely,



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On behalf of Felman Trading Inc.

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