Rachel, Emily:

Attached is a call memo for Ambassador Gerrish, in support of a call to the Thai Ambassador on the pending GSP labor rights review decision. We understand from Ed and Erland (copied) that the memo may be needed as early as tomorrow; they will keep us posted. If we get the go ahead, we will want to move quickly to arrange for a short call for Ambassador Gerrish with the Thai Ambassador, to give a heads up on the decision and to reiterate our interest in working with Thailand to address these concerns.

Stay tuned for updates on developments.

Thanks, Karl
EXECUTIVE SUMMARY

The GSP office informs us that the GSP proclamation could be approved by the President and ready for issuance as early as tomorrow, Friday, October 25. If there is time in your schedule, we would propose that you call Thai Ambassador Thani to inform him of these decision to inform him of the decision to suspend approximately one-third of Thailand’s GSP benefits (on imports valued at $1.5 billion in 2018) based on shortcomings in affording internationally recognized worker rights. The removal is effective six months from today. The call provides an opportunity to emphasize that even though the U.S. is announcing this decision, we remain committed to engaging with Thailand to resolve issues in the GSP worker rights review. You also may want to*

Finally, you can note that the President has approved two petitions to add goods principally produced in Thailand to GSP (plastic glasses lenses and cut orchids); and the decision underlines the administration’s hope to engage effectively with Thailand to address the issues in the two petitions.

DETAILS

Date [Month Date, Year]

Time [XX:XX AM / PM]

Dial-In [Please provide the number or who will be connecting]

Information:

BACKGROUND / AREAS OF INTEREST

GSP Worker Rights Review. As you previewed for Deputy Prime Minister and Commerce Minister Jurin at the ASEAN Economic Ministers Meeting, we are asking Thailand to enact labor reforms to address priority concerns, including regarding freedom of association for migrant workers and employer sponsored defamation cases used to harass employees. The Presidential Proclamation to remove 1/3 of Thailand’s GSP preferences will be announced later today and will become effective six months from signature of the Proclamation (i.e. end of April, 2020). If Thailand effectively engages with USTR and addresses U.S. concerns, the USTR could recommend Exemption 5.

Background: In 2013, the AFL-CIO submitted a petition seeking a review of Thailand’s eligibility for GSP benefits based on the alleged failure of the Thai Government to afford internationally recognized worker rights to workers in Thailand. USTR accepted the petition. In initiating the review, USTR identified seven priority concerns, on
which we have engaged with Thailand at various levels including at our annual TIFA meetings. Thailand’s response has been that it would address U.S. concerns in a revised Labor Relations Act. The date by which the government has committed to present the draft bill to the Thai National Assembly has been postponed multiple times. Most recently, at our July TIFA meeting, Thailand indicated that the timing of a new Labor Relations Act was being postponed until July 2020 at the earliest. Substantively, the draft language that Thailand has shared with the United States appears

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### GSP Pork Market Access Review

**Background:** The National Pork Producers Council (NPPC) filed a petition in April 2018 alleging that Thailand is failing to meet the GSP criterion requiring countries to provide “equitable and reasonable access” to its market and requesting USTR to withdraw or limit Thailand’s GSP benefits. In May 2018, USTR accepted NPPC’s petition. USTR, along with the U.S. interagency, has been engaging at a technical level with Thailand regularly on these issues. The most recent meetings in Bangkok were in September 2019.

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### Glyphosate

**Overview:** Thailand is in the process of enforcing through a ban on three herbicides, Paraquat, Chlorpyrifos, and Glyphosate. This effort is being led by the new Deputy Minister of Agriculture and Cooperatives, Mananya Thaiseth. The Deputy Minister is pushing to change the status for these three herbicides from the current category 3 (subject to product registration and restriction on production and trade) classification to category 4 (banned). Any substance determined to be a category 4 substance automatically has a zero MRL. If the Deputy Minister succeeds in changing the classification for Paraquat, Chlorpyrifos, and Glyphosate to category 4, this would halt imports of plant-based...
agricultural foods and produce exposed to the chemicals (animal feed ingredients should not encounter any issues). Post has requested a meeting with the Prime Minister’s office on the proposed ban, but Thailand has not yet agreed to the meeting. **Exemption 5**

### BIOGRAPHICAL INFORMATION

**Thani Thongphakdi, Thai Ambassador to the United States**

- Thani Thongphakdi presented his credentials as Ambassador in August.
- Prior to the appointment, he served as Deputy Permanent Secretary of the Ministry of Foreign Affairs (MFA) since February 2017.
- Thani is a career diplomat who joined the MFA in 1987. Notable postings include: Ambassador to the Thai Mission to United Nations in Geneva; Director General, the Department of Information; the MFA Spokesperson; Deputy Director General, Department of Information. Earlier in his career, he was posted to Washington as Counselor and then Minister-Counselor for political and economic affairs (2001-2004).
- He received a Master of Science in Foreign Service from Georgetown University in Washington D.C. in 1987.

### ATTACHMENTS

- Talking Points
TALKING POINTS

• Welcome to Washington, and congratulations on your appointment as Ambassador.

• I had a close and positive working relationship with Ambassador Virachai and was greatly saddened by his passing.

• I look forward to having an excellent working relationship with you, too, now that you have assumed your new responsibilities.

• I am calling today to inform you of a decision made by President Trump to suspend approximately one-third of Thailand’s GSP benefits based on its shortcomings in affording internationally recognized worker rights, effective six months from today.

• Our hope is that Thailand will move forward with legislation and administrative enforcement actions.

• As I am sure you know, this is a longstanding bilateral issue that predates your time in Washington by many years, following a GSP petition submitted by AFL-CIO in 2013.

• When I was in Bangkok for the ASEAN economic ministers meetings last month, I took the opportunity to meet with Deputy Prime Minister and Commerce Minister Jurin, to make him aware of these concerns.

• The United States and Thailand have been engaging regularly on issues raised in this GSP petition for six years.
• Unfortunately this engagement has not resulted in any actions by Thailand to make improvements to afford internationally recognized workers’ rights to come into full compliance with the GSP eligibility criteria.

• We urge Thailand to amend the Labor Relations Act and take action to address our concerns, in particular regarding restrictions on freedom of speech related to labor rights and freedom of association for migrant workers.

• As mentioned, this partial removal of GSP benefits will occur six months from today – however, if Thailand resolves these issues, there is a possibility that this action could be reversed; past engagement has not been sufficient.

• For any such effort to be successful, we would need a more effective and higher level engagement from Thailand than we have had in the past.

• Note that in addition to these labor issues, the review of Thailand’s compliance with regards to the market access criteria remains open.

• Exemption 5

• We strongly urge Thailand to engage with USTR at the highest levels and take meaningful action in regards to the pork market access issue Exemption 5

• Finally, the President has approved two petitions to add cut orchids to the GSP list and grant a CNL waiver for plastic glasses lenses to

[APG]
allow this product to remain in GSP.

- This underlines the fact that our work on the labor standards and pork market access petitions is based strictly on the eligibility criteria, and that the goal is not to remove benefits but to address the problems in labor and pork. We urge the Thai government to remain engaged with us on the labor matters, and to work hard for resolution of the issues in the pork market access case in the coming months.

*Glyphosate (as appropriate):*

Exemption 5

- (If asked) **Exemption 5**
ASEAN/EAS Leaders Meeting

- We wish Thailand well in its role as chair of the upcoming ASEAN and EAS Leaders meetings.
Some helpful information/insights

Ms. Marta M. Prado
Deputy Assistant U.S. Trade Representative for Southeast Asia and the Pacific
Office of the United States Trade Representative
Executive Office of the President
Tel: 202 395-6216

Lisa,

In advance of our call, please find responses from my Bangkok based colleagues to your questions that I received overnight. Looking forward to our discussion.

Jim

1. Q: Is there a copy of the NHSC decision to put glyphosate on the banned list? Having concrete proof that Thailand has taken this action, helps strengthen USTR’s message from a legal standpoint.

1. A: There is a press release in Thai of NHSC meeting on Oct 22nd. It was distributed at a press conference convened by Chairman of NHSC after the meeting finished. Attached is a copy of press release for your reference and news report in English from Thai Public Broadcast Service (>https://www.thaipbsworld.com/three-controversial-farm-chemicals-to-be-banned-from-december-1st/<).

2 Q: My understanding is that anything on the hazardous substance list (category 4) is not permitted to be manufactured, imported, or exported. This would seem to have non-ag implications and thereby, there might be more non-ag interests at stake here (both internationally as well as with Thai domestic stakeholders). If so, would Bayer be able to identify them?