

RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS
AND RELIQUIDATIONS

Pub. L. 107-210, div. D, title XLI, §4101(b), Aug. 6, 2002, 116 Stat. 1040, as amended by Pub. L. 108-429, title II, §2004(a)(20), Dec. 3, 2004, 118 Stat. 2591, provided that:

“(1) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 [19 U.S.C. 1514] or any other provision of law, and subject to paragraph (2), the entry of any article—

“(A) to which duty-free treatment under title V of the Trade Act of 1974 [19 U.S.C. 2461 et seq.] would have applied if the entry had been made on September 30, 2001,

“(B) that was made after September 30, 2001, and before the date of the enactment of this Act [Aug. 6, 2002], and

“(C) to which duty-free treatment under title V of that Act did not apply, shall be liquidated or reliquidated as free of duty, and the Secretary of the Treasury shall refund any duty paid with respect to such entry.

“(2) REQUESTS.—Liquidation or reliquidation may be made under paragraph (1) with respect to an entry only if a request therefor is filed with the Customs Service, within 180 days after the date of the enactment of this Act, that contains sufficient information to enable the Customs Service—

“(A) to locate the entry; or

“(B) to reconstruct the entry if it cannot be located.

“(3) DEFINITION.—As used in this subsection, the term ‘entry’ includes a withdrawal from warehouse for consumption.”

[For transfer of functions, personnel, assets, and liabilities of the United States Customs Service of the Department of the Treasury, including functions of the Secretary of the Treasury relating thereto, to the Secretary of Homeland Security, and for treatment of related references, see sections 203(1), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.]

Pub. L. 105-34, title IX, §981(b), Aug. 5, 1997, 111 Stat. 902, provided that the entry of any article to which duty-free treatment under this subchapter would have applied if the entry had been made on May 31, 1997, and that was made after May 31, 1997, and before Aug. 5, 1997, would be liquidated or reliquidated as free of duty, and the Secretary of the Treasury would refund any duty paid with respect to such entry, only if a request therefor was filed with the Customs Service, within 180 days after Aug. 5, 1997, that contained sufficient information to enable the Customs Service to locate the entry, or to reconstruct the entry if it could not be located.

Pub. L. 103-465, title VI, §601(b), Dec. 8, 1994, 108 Stat. 4991, as amended by Pub. L. 104-295, §20(f)(2), Oct. 11, 1996, 110 Stat. 3529, provided that the entry of any article to which duty-free treatment under this subchapter would have applied if the entry had been made on Sept. 30, 1994, and that was made after Sept. 30, 1994, and before Dec. 8, 1994, would be liquidated or reliquidated as free of duty, and the Secretary of the Treasury would refund any duty paid with respect to such entry, only if a request therefor was filed with the Customs Service, within 180 days after Dec. 8, 1994, that contained sufficient information to enable the Customs Service to locate the entry, or to reconstruct the entry if it could not be located.

Pub. L. 103-66, title XIII, §13802(b)(2), Aug. 10, 1993, 107 Stat. 667, provided that, upon proper request filed with the appropriate customs officer within 180 days after Aug. 10, 1993, the entry of any article to which duty-free treatment under this subchapter would have applied if the entry had been made on July 4, 1993, and that was made after July 4, 1993, and before Aug. 10, 1993, would be liquidated or reliquidated as free of duty, and the Secretary of the Treasury would refund any duty paid with respect to such entry.

§ 2466. Agricultural exports of beneficiary developing countries

The appropriate agencies of the United States shall assist beneficiary developing countries to develop and implement measures designed to assure that the agricultural sectors of their economies are not directed to export markets to the detriment of the production of foodstuffs for their citizenry.

(Pub. L. 93-618, title V, §506, as added Pub. L. 104-188, title I, §1952(a), Aug. 20, 1996, 110 Stat. 1925.)

PRIOR PROVISIONS

A prior section 2466, Pub. L. 93-618, title V, §506, as added Pub. L. 98-573, title V, §507(a), Oct. 30, 1984, 98 Stat. 3023, related to agricultural exports of beneficiary developing countries, prior to the general amendment of this subchapter by Pub. L. 104-188.

§ 2466a. Designation of sub-Saharan African countries for certain benefits

(a) Authority to designate

(1) In general

Notwithstanding any other provision of law, the President is authorized to designate a country listed in section 107 of the African Growth and Opportunity Act [19 U.S.C. 3706] as a beneficiary sub-Saharan African country eligible for the benefits described in subsection (b)—

(A) if the President determines that the country meets the eligibility requirements set forth in section 104 of that Act [19 U.S.C. 3703], as such requirements are in effect on May 18, 2000; and

(B) subject to the authority granted to the President under subsections (a), (d), and (e) of section 2462 of this title, if the country otherwise meets the eligibility criteria set forth in section 2462 of this title.

(2) Monitoring and review of certain countries

The President shall monitor, review, and report to Congress annually on the progress of each country listed in section 107 of the African Growth and Opportunity Act in meeting the requirements described in paragraph (1) in order to determine the current or potential eligibility of each country to be designated as a beneficiary sub-Saharan African country for purposes of this section. The President's determinations, and explanations of such determinations, with specific analysis of the eligibility requirements described in paragraph (1)(A), shall be included in the annual report required by section 106 of the African Growth and Opportunity Act [19 U.S.C. 3705].

(3) Continuing compliance

(A) In general

If the President determines that a beneficiary sub-Saharan African country is not making continual progress in meeting the requirements described in paragraph (1), the President shall terminate the designation of that country as a beneficiary sub-Saharan African country for purposes of this section, effective on January 1 of the year following the year in which such determination is made.

(B) Notification

The President may not terminate the designation of a country as a beneficiary sub-Saharan African country under subparagraph (A) unless, at least 60 days before the termination of such designation, the President notifies Congress and notifies the country of the President's intention to terminate such designation, together with the considerations entering into the decision to terminate such designation.

(b) Preferential tariff treatment for certain articles**(1) In general**

The President may provide duty-free treatment for any article described in section 2463(b)(1)(B) through (G) of this title that is the growth, product, or manufacture of a beneficiary sub-Saharan African country described in subsection (a), if, after receiving the advice of the International Trade Commission in accordance with section 2463(e) of this title, the President determines that such article is not import-sensitive in the context of imports from beneficiary sub-Saharan African countries.

(2) Rules of origin

The duty-free treatment provided under paragraph (1) shall apply to any article described in that paragraph that meets the requirements of section 2463(a)(2) of this title, except that—

(A) if the cost or value of materials produced in the customs territory of the United States is included with respect to that article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered that is attributed to such United States cost or value may be applied toward determining the percentage referred to in subparagraph (A) of section 2463(a)(2) of this title;

(B) the cost or value of the materials included with respect to that article that are produced in one or more beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage; and

(C) the direct costs of processing operations performed in one or more such beneficiary sub-Saharan African countries or former beneficiary sub-Saharan African countries shall be applied in determining such percentage.

(3) Rules of origin under this subchapter

The exceptions set forth in subparagraphs (A), (B), and (C) of paragraph (2) shall also apply to any article described in section 2463(a)(1) of this title that is the growth, product, or manufacture of a beneficiary sub-Saharan African country for purposes of any determination to provide duty-free treatment with respect to such article.

(c) Withdrawal, suspension, or limitation of preferential tariff treatment**(1) In general**

The President may withdraw, suspend, or limit the application of duty-free treatment

provided for any article described in subsection (b)(1) of this section or section 112 of the African Growth and Opportunity Act [19 U.S.C. 3721] with respect to a beneficiary sub-Saharan African country if the President determines that withdrawing, suspending, or limiting such duty-free treatment would be more effective in promoting compliance by the country with the requirements described in subsection (a)(1) than terminating the designation of the country as a beneficiary sub-Saharan African country for purposes of this section.

(2) Notification

The President may not withdraw, suspend, or limit the application of duty-free treatment under paragraph (1) unless, at least 60 days before such withdrawal, suspension, or limitation, the President notifies Congress and notifies the country of the President's intention to withdraw, suspend, or limit such duty-free treatment, together with the considerations entering into the decision to terminate such designation.

(d) Review and public comments on eligibility requirements**(1) In general**

In carrying out subsection (a)(2), the President shall publish annually in the Federal Register a notice of review and request for public comments on whether beneficiary sub-Saharan African countries are meeting the eligibility requirements set forth in section 104 of the African Growth and Opportunity Act [19 U.S.C. 3703] and the eligibility criteria set forth in section 2462 of this title.

(2) Public hearing

The United States Trade Representative shall, not later than 30 days after the date on which the President publishes the notice of review and request for public comments under paragraph (1)—

(A) hold a public hearing on such review and request for public comments; and

(B) publish in the Federal Register, before such hearing is held, notice of—

(i) the time and place of such hearing; and

(ii) the time and place at which such public comments will be accepted.

(3) Petition process**(A) In general**

Not later than 60 days after June 29, 2015, the President shall establish a process to allow any interested person, at any time, to file a petition with the Office of the United States Trade Representative with respect to the compliance of any country listed in section 107 of the African Growth and Opportunity Act [19 U.S.C. 3706] with the eligibility requirements set forth in section 104 of such Act [19 U.S.C. 3703] and the eligibility criteria set forth in section 2462 of this title.

(B) Use of petitions

The President shall take into account all petitions filed pursuant to subparagraph (A)

in making determinations of compliance under subsections (a)(3)(A) and (c) and in preparing any reports required by this subchapter as such reports apply with respect to beneficiary sub-Saharan African countries.

(4) Out-of-cycle reviews

(A) In general

The President may, at any time, initiate an out-of-cycle review of whether a beneficiary sub-Saharan African country is making continual progress in meeting the requirements described in paragraph (1). The President shall give due consideration to petitions received under paragraph (3) in determining whether to initiate an out-of-cycle review under this subparagraph.

(B) Congressional notification

Before initiating an out-of-cycle review under subparagraph (A), the President shall notify and consult with Congress.

(C) Consequences of review

If, pursuant to an out-of-cycle review conducted under subparagraph (A), the President determines that a beneficiary sub-Saharan African country does not meet the requirements set forth in section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)), the President shall, subject to the requirements of subsections (a)(3)(B) and (c)(2), terminate the designation of the country as a beneficiary sub-Saharan African country or withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country.

(D) Reports

After each out-of-cycle review conducted under subparagraph (A) with respect to a country, the President shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the review and any determination of the President to terminate the designation of the country as a beneficiary sub-Saharan African country or withdraw, suspend, or limit the application of duty-free treatment with respect to articles from the country under subparagraph (C).

(E) Initiation of out-of-cycle reviews for certain countries

Recognizing that concerns have been raised about the compliance with section 104(a) of the African Growth and Opportunity Act (19 U.S.C. 3703(a)) of some beneficiary sub-Saharan African countries, the President shall initiate an out-of-cycle review under subparagraph (A) with respect to South Africa, the most developed of the beneficiary sub-Saharan African countries, and other beneficiary countries as appropriate, not later than 30 days after June 29, 2015.

(e) Beneficiary sub-Saharan African countries, etc.

For purposes of this subchapter—

(1) the terms “beneficiary sub-Saharan African country” and “beneficiary sub-Saharan African countries” mean a country or coun-

tries listed in section 107 of the African Growth and Opportunity Act [19 U.S.C. 3706] that the President has determined is eligible under subsection (a) of this section.

(2) the term “former beneficiary sub-Saharan African country” means a country that, after being designated as a beneficiary sub-Saharan African country under the African Growth and Opportunity Act [19 U.S.C. 3701 et seq.], ceased to be designated as such a country by reason of its entering into a free trade agreement with the United States.

(Pub. L. 93-618, title V, §506A, as added Pub. L. 106-200, title I, §111(a), May 18, 2000, 114 Stat. 257; amended Pub. L. 108-274, §7(a)(2), July 13, 2004, 118 Stat. 823; Pub. L. 114-27, title I, §§104(a), (b), 105, June 29, 2015, 129 Stat. 365.)

REFERENCES IN TEXT

The African Growth and Opportunity Act, referred to in subsec. (e)(2), is title I of Pub. L. 106-200, May 18, 2000, 114 Stat. 252, as amended, which is classified principally to chapter 23 (§3701 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 3701 of this title and Tables.

AMENDMENTS

2015—Subsec. (a)(3). Pub. L. 114-27, §105(a), designated existing provisions as subpar. (A), inserted heading, and added subpar. (B).

Subsec. (b)(2)(C). Pub. L. 114-27, §104(a), added subpar. (C).

Subsec. (b)(3). Pub. L. 114-27, §104(b), added par. (3).

Subsecs. (c), (d). Pub. L. 114-27, §105(b), added subsec. (c) and redesignated former subsec. (c) as (d).

Subsecs. (d), (e). Pub. L. 114-27, §105(c), added subsec. (d) and redesignated former subsec. (d) as (e).

2004—Subsec. (b)(2)(B). Pub. L. 108-274, §7(a)(2)(A), inserted “or former beneficiary sub-Saharan African countries” after “countries”.

Subsec. (c). Pub. L. 108-274, §7(a)(2)(B), substituted “subchapter—” for “subchapter,” inserted par. (1) designation before “the terms”, and added par. (2).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-27, title I, §104(d), June 29, 2015, 129 Stat. 365, provided that: “The amendments made by subsections (a) and (b) [amending this section] take effect on the date of the enactment of this Act [June 29, 2015] and apply with respect to any article described in section 503(b)(1)(B) through (G) of the Trade Act of 1974 [19 U.S.C. 2463(b)(1)(B) through (G)] that is the growth, product, or manufacture of a beneficiary sub-Saharan African country and that is imported into the customs territory of the United States on or after the date that is 30 days after such date of enactment.”

[For definition of “beneficiary sub-Saharan African country” as used in section 104(d) of Pub. L. 114-27, set out above, see section 112 of Pub. L. 114-27, set out as a note under section 3701 of this title.]

MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE

Pub. L. 114-27, title I, §104(c), June 29, 2015, 129 Stat. 365, provided that: “The President may proclaim such modifications as may be necessary to the Harmonized Tariff Schedule of the United States (HTS) to add the special tariff treatment symbol ‘D’ in the ‘Special’ subcolumn of the HTS for each article classified under a heading or subheading with the special tariff treatment symbol ‘A’ or ‘A*’ in the ‘Special’ subcolumn of the HTS.”

§ 2466b. Termination of benefits for sub-Saharan African countries

In the case of a beneficiary sub-Saharan African country, as defined in section 2466a(c)¹ of this title, duty-free treatment provided under this subchapter shall remain in effect through September 30, 2025.

(Pub. L. 93-618, title V, § 506B, as added Pub. L. 106-200, title I, § 114, May 18, 2000, 114 Stat. 266; amended Pub. L. 108-274, § 7(a)(1), July 13, 2004, 118 Stat. 823; Pub. L. 114-27, title I, § 103(a), June 29, 2015, 129 Stat. 364.)

REFERENCES IN TEXT

Section 2466a(c) of this title, referred to in text, was redesignated section 2466a(e) of this title by Pub. L. 114-27, title I, § 105(b), (c), June 29, 2015, 129 Stat. 366.

AMENDMENTS

2015—Pub. L. 114-27 substituted “September 30, 2025” for “September 30, 2015”.

2004—Pub. L. 108-274 substituted “2015” for “2008”.

§ 2467. Definitions

For purposes of this subchapter:

(1) Beneficiary developing country

The term “beneficiary developing country” means any country with respect to which there is in effect an Executive order or Presidential proclamation by the President designating such country as a beneficiary developing country for purposes of this subchapter.

(2) Country

The term “country” means any foreign country or territory, including any overseas dependent territory or possession of a foreign country, or the Trust Territory of the Pacific Islands. In the case of an association of countries which is a free trade area or customs union, or which is contributing to comprehensive regional economic integration among its members through appropriate means, including, but not limited to, the reduction of duties, the President may by Executive order or Presidential proclamation provide that all members of such association other than members which are barred from designation under section 2462(b) of this title shall be treated as one country for purposes of this subchapter.

(3) Entered

The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) Internationally recognized worker rights

The term “internationally recognized worker rights” includes—

- (A) the right of association;
- (B) the right to organize and bargain collectively;
- (C) a prohibition on the use of any form of forced or compulsory labor;
- (D) a minimum age for the employment of children, and a prohibition on the worst forms of child labor, as defined in paragraph (6); and
- (E) acceptable conditions of work with respect to minimum wages, hours of work, and occupational safety and health.

(5) Least-developed beneficiary developing country

The term “least-developed beneficiary developing country” means a beneficiary developing country that is designated as a least-developed beneficiary developing country under section 2462(a)(2) of this title.

(6) Worst forms of child labor

The term “worst forms of child labor” means—

(A) all forms of slavery or practices similar to slavery, such as the sale or trafficking of children, debt bondage and serfdom, or forced or compulsory labor, including forced or compulsory recruitment of children for use in armed conflict;

(B) the use, procuring, or offering of a child for prostitution, for the production of pornography or for pornographic purposes;

(C) the use, procuring, or offering of a child for illicit activities in particular for the production and trafficking of drugs; and

(D) work which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety, or morals of children.

The work referred to in subparagraph (D) shall be determined by the laws, regulations, or competent authority of the beneficiary developing country involved.

(Pub. L. 93-618, title V, § 507, as added Pub. L. 104-188, title I, § 1952(a), Aug. 20, 1996, 110 Stat. 1926; amended Pub. L. 106-200, title IV, § 412(b), May 18, 2000, 114 Stat. 298; Pub. L. 107-210, div. D, title XLI, § 4102(b), Aug. 6, 2002, 116 Stat. 1041.)

AMENDMENTS

2002—Par. (4)(D). Pub. L. 107-210 amended subpar. (D) generally. Prior to amendment, subpar. (D) read as follows: “a minimum age for the employment of children; and”.

2000—Par. (6). Pub. L. 106-200 added par. (6).

TERMINATION OF TRUST TERRITORY OF THE PACIFIC ISLANDS

For termination of Trust Territory of the Pacific Islands, see note set out preceding section 1681 of Title 48, Territories and Insular Possessions.

SUBCHAPTER VI—GENERAL PROVISIONS

§ 2481. Definitions

For purposes of this chapter—

(1) The term “duty” includes the rate and form of any import duty, including but not limited to tariff-rate quotas.

(2) The term “other import restriction” includes a limitation, prohibition, charge, or exaction other than duty, imposed on importation or imposed for the regulation of importation. The term does not include any orderly marketing agreement.

(3) The term “ad valorem” includes ad valorem equivalent. Whenever any limitation on the amount by which or to which any rate of duty may be decreased or increased pursuant to a trade agreement is expressed in terms of an ad valorem percentage, the ad valorem amount taken into account for purposes of such limitation shall be determined by the

¹ See References in Text note below.