

(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) of this section, 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; and

(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.

(c) 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 countries 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.)

REFERENCES IN TEXT

The African Growth and Opportunity Act, referred to in subsec. (c)(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

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).

§ 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) of this title, duty-free treatment provided under this subchapter shall remain in effect through September 30, 2015.

(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.)

AMENDMENTS

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

President on the basis of the value of imports of the articles concerned during the most recent representative period.

(4) The term “ad valorem equivalent” means the ad valorem equivalent of a specific rate or, in the case of a combination of rates including a specific rate, the sum of the ad valorem equivalent of the specific rate and of the ad valorem rate. The ad valorem equivalent shall be determined by the President on the basis of the value of imports of the article concerned during the most recent representative period. In determining the value of imports, the President shall utilize, to the maximum extent practicable, the standards of valuation contained in section 1401a or 1402¹ of this title (as in effect before the effective date of the amendments made by title II of the Trade Agreements Act of 1979) or in section 1401a of this title (as in effect on the effective date of such title II amendments) whichever is applicable to the article concerned during such representative period.

(5) An imported article is “directly competitive with” a domestic article at an earlier or later stage of processing, and a domestic article is “directly competitive with” an imported article at an earlier or later stage of processing, if the importation of the article has an economic effect on producers of the domestic article comparable to the effect of importation of articles in the same stage of processing as the domestic article. For purposes of this paragraph, the unprocessed article is at an earlier stage of processing.

(6) The term “modification”, as applied to any duty or other import restriction, includes the elimination of any duty or other import restriction.

(7) The term “existing” means (A) when used, without the specification of any date, with respect to any matter relating to entering into or carrying out a trade agreement or other action authorized by this chapter, existing on the day on which such trade agreement is entered into or such other action is taken; and (B) when used with respect to a rate of duty, the nonpreferential rate of duty (however established, and even though temporarily suspended by Act of Congress or otherwise) set forth in rate column numbered 1 of chapters 1 through 97 of the Harmonized Tariff Schedule of the United States on the date specified or (if no date is specified) on the day referred to in clause (A).

(8) A product of a country or area is an article which is the growth, produce, or manufacture of such country or area.

(9) The term “nondiscriminatory treatment” means trade treatment based on normal trade relations (known under international law as most-favored-nation treatment).

(10) The term “commerce” includes services associated with international trade.

(Pub. L. 93-618, title VI, § 601, Jan. 3, 1975, 88 Stat. 2071; Pub. L. 96-39, title II, § 202(c)(1), title XI, § 1106(h)(1), July 26, 1979, 93 Stat. 202, 313; Pub. L. 100-418, title I, § 1214(j)(5), Aug. 23, 1988,

¹ See References in Text note below.