
Presidential Documents

Title 3—

Proclamation 8240 of April 17, 2008

The President

To Take Certain Actions Under the African Growth and Opportunity Act and the Generalized System of Preferences and for Other Purposes

By the President of the United States of America

A Proclamation

1. Section 506A(a)(1) of the Trade Act of 1974, as amended (the “1974 Act”) (19 U.S.C. 2466a(a)(1)), as added by section 111(a) of the African Growth and Opportunity Act (title I of Public Law 106–200) (AGOA), authorizes the President to designate a country listed in section 107 of the AGOA (19 U.S.C. 3706) as a “beneficiary sub-Saharan African country” if the President determines that the country meets the eligibility requirements set forth in section 104 of the AGOA (19 U.S.C. 3703), as well as the eligibility criteria set forth in section 502 of the 1974 Act (19 U.S.C. 2462).
2. Section 104 of the AGOA authorizes the President to designate a country listed in section 107 of the AGOA as an “eligible sub-Saharan African country” if the President determines that the country meets certain eligibility requirements.
3. Section 112(c) of the AGOA, as amended in section 6002 of the Africa Investment Incentive Act of 2006 (Division D, Title VI, Public Law 109–432) (19 U.S.C. 3721(c)), provides special rules for certain apparel articles imported from “lesser developed beneficiary sub-Saharan African countries.”
4. Pursuant to section 104 of the AGOA and section 506A(a)(1) of the 1974 Act, I have determined that the Republic of Togo (Togo) meets the eligibility requirements set forth or referenced therein, and I have decided to designate Togo as an eligible sub-Saharan African country and as a beneficiary sub-Saharan African country.
5. I further determine that Togo satisfies the criterion for treatment as a “lesser developed beneficiary sub-Saharan African country” under section 112(c)(5)(D) of the AGOA, as amended.
6. Presidential Proclamation 8114 of March 19, 2007, implemented section 112 of the AGOA, as amended. Technical corrections to the Harmonized Tariff Schedule of the United States (HTS) are necessary to implement the intended tariff treatment.
7. Pursuant to sections 501 and 502(a) of the 1974 Act (19 U.S.C. 2461, 2462(a)), the President is authorized to designate countries as beneficiary developing countries, and to designate any beneficiary developing country as a least-developed beneficiary developing country, for purposes of the Generalized System of Preferences (GSP) program.
8. In Executive Order 12302 of April 1, 1981, the President designated the Solomon Islands as a beneficiary developing country for purposes of the GSP program. Pursuant to section 502(a)(2) of the 1974 Act, and having considered the factors set forth in sections 501 and 502(c), I have determined that the Solomon Islands should be designated as a least-developed beneficiary developing country for purposes of the GSP program.

9. In calendar year 2006, imports from Jamaica under subheading 2202.90.37 of the HTS exceeded the relevant competitive need limitation (CNL) set forth in 19 U.S.C. 2463(c)(2). Pursuant to section 503(c)(2)(A) of the 1974 Act, where imports of articles exceed the relevant CNL in a calendar year, the President shall withdraw duty-free treatment for such article by July 1 of the following year and modify the HTS accordingly.

10. On January 6, 1987, Colombia was granted a waiver of the CNL for imports under HTS subheading 1701.11.05. Despite the existing waiver of the CNL, on July 5, 2001, duty-free treatment was withdrawn in error for imports from Colombia under HTS subheading 1701.11.05 because import levels exceeded the relevant CNL in calendar year 2000. A technical correction to the HTS is required to reflect the waiver of the CNL for imports from Colombia under HTS subheading 1701.11.05.

11. In Presidential Proclamation 8097 of December 29, 2006, I modified the HTS pursuant to section 1206(a) of the Omnibus Trade and Competitiveness Act of 1988 (19 U.S.C. 3006(a)) to conform the HTS to the International Convention on the Harmonized Commodity Description and Coding System (the "Convention"). Additional conforming changes to the HTS are required to implement the intended tariff treatment.

12. Section 604 of the 1974 Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the HTS the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including but not limited to section 104 of the AGOA and title V and section 604 of the 1974 Act (19 U.S.C. 2461–67, 2483), do proclaim that:

(1) Togo is designated as an eligible sub-Saharan African country and as a beneficiary sub-Saharan African country for purposes of the AGOA.

(2) In order to reflect this designation in the HTS, general note 16(a) to the HTS is modified by inserting in alphabetical sequence in the list of beneficiary sub-Saharan African countries "Republic of Togo," effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the thirtieth day after the date of this proclamation.

(3) For purposes of section 112(c) of the AGOA, as amended, Togo is a lesser developed beneficiary sub-Saharan African country.

(4) In order to provide the tariff treatment intended under section 112 of the AGOA, as amended, the HTS is modified as set forth in the Annex to this proclamation.

(5) The Solomon Islands is designated as a least-developed beneficiary developing country for purposes of the GSP program.

(6) In order to reflect this designation in the HTS, general note 4(b)(i) is modified by adding in alphabetical order "The Solomon Islands," effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the sixty-fifth day after the date of this proclamation.

(7) For purposes of the GSP program, in order to provide the intended tariff treatment for imports from Jamaica, under HTS subheading 2202.90.37, general note 4(d) is modified by adding in numerical order "2202.90.37" and by inserting "Jamaica" next to "2202.90.37."

(8) For purposes of the GSP program, in order to provide the intended tariff treatment for imports from Colombia, under HTS subheading 1701.11.05, general note 4(d) is modified by deleting "Colombia" from the list of countries enumerated next to HTS subheading "1701.11.05."

(9) In order to conform the HTS to the Convention, additional U.S. note 3(d) to subchapter XX of chapter 98 and additional U.S. note 4(d) to subchapter XXI of chapter 98 of the HTS are each modified by deleting "5402.10.30, 5402.10.60," each place it occurs and by inserting in lieu thereof "5402.11.30, 5402.11.60, 5402.19.30, 5402.19.60," in each case.

(10) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this seventeenth day of April, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.



ANNEX

TO IMPLEMENT TECHNICAL MODIFICATIONS
IN THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2007, subchapter XIX of chapter 98 of the Harmonized Tariff Schedule of the United States is modified as set forth herein:

1. U.S. note 2 to such subchapter is modified--

(A) by modifying the text of subdivision (a) to read as follows:

“Imports of apparel articles under subheadings 9819.11.09, 9819.11.12 and 9819.15.10, and under any other subheading from among subheadings 9819.15.15 through 9819.15.42 which may be applicable to imported apparel articles from eligible beneficiary sub-Saharan African countries pursuant to determinations of the United States International Trade Commission, shall be limited during each 1-year period enumerated in subdivision (b) of this note to the applicable percentage, in aggregate square meter equivalents, of all apparel articles imported into the United States in the preceding 12-month period for which data are available. Any apparel article eligible for entry under both subheading 9819.11.09 and a subheading from among subheadings 9819.15.10 through 9819.15.42 shall be entered under the appropriate subheading from among subheadings 9819.15.10 through 9819.15.42.”;

(B) by deleting from subdivision (b) of such note the expression “subheading 9819.11.09” at its first instance and by inserting in lieu thereof “subheadings 9819.11.09 and 9819.15.10, and under any other subheading from among subheadings 9819.15.15 through 9819.15.42 which may be applicable to imported apparel articles from eligible beneficiary sub-Saharan African countries pursuant to determinations of the United States International Trade Commission,”; and

(C) by deleting from subdivision (e) of such note the expression “subheading 9819.11.09” and by inserting in lieu thereof “subheadings 9819.11.09, 9819.11.12 and 9819.15.10, and under any other subheading from among subheadings 9819.15.15 through 9819.15.42 which may be applicable to imported apparel articles from eligible beneficiary sub-Saharan African countries pursuant to determinations of the United States International Trade Commission”.

2. U.S. note 5 to such subchapter is modified--

(A) by deleting subdivision (a) and paragraphs (a)(i) and (a)(ii) of such note and by inserting in lieu thereof the following new subdivision:

“(a) For purposes of subheadings 9819.15.10 through 9819.15.42 and the superior text thereto, subject to the provisions of this note and to U.S. note 2 to this subchapter, apparel articles are eligible for entry under these provisions if they contain a fabric or yarn produced in beneficiary sub-Saharan African countries that has been determined by the United States International Trade Commission (USITC) to be available in commercial quantities for use in lesser developed sub-Saharan African beneficiary countries, pursuant to the terms of section 112(c) of the African Growth and Opportunity Act (AGOA), as amended (19 U.S.C. 3721(c)), provided that all other requirements of this subchapter and applicable Customs regulations are met. For the purposes of this note, apparel articles contain a fabric or yarn if each article, or the component of each such article that determines the article’s classification for tariff purposes, is considered to be an article or component of that fabric or yarn. The USITC will determine and announce, in notices published in the *Federal Register* under the terms of section 112(c)(2) of the AGOA, the aggregate quantity of each fabric or yarn covered by a previous affirmative USITC determination described in the first sentence of this subdivision that was used to produce apparel articles in lesser developed sub-Saharan African beneficiary countries enumerated in U.S. note 2(d) to this subchapter that were entered into the United States during each applicable 1-year period starting on October 1 in a year and ending on September 30 in the subsequent year. No apparel articles shall be entered under subheadings 9819.15.10 through 9819.15.42 after the close of September 30, 2012.”; and

(B) by deleting subdivision (b) of such note.