

One Hundred Fourteenth Congress
of the
United States of America

AT THE FIRST SESSION

*Began and held at the City of Washington on Tuesday,
the sixth day of January, two thousand and fifteen*

An Act

To extend the African Growth and Opportunity Act, the Generalized System of Preferences, the preferential duty treatment program for Haiti, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the “Trade Preferences Extension Act of 2015”.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EXTENSION OF AFRICAN GROWTH AND OPPORTUNITY ACT

Sec. 101. Short title.

Sec. 102. Findings.

Sec. 103. Extension of African Growth and Opportunity Act.

Sec. 104. Modifications of rules of origin for duty-free treatment for articles of beneficiary sub-Saharan African countries under Generalized System of Preferences.

Sec. 105. Monitoring and review of eligibility under Generalized System of Preferences.

Sec. 106. Promotion of the role of women in social and economic development in sub-Saharan Africa.

Sec. 107. Biennial AGOA utilization strategies.

Sec. 108. Deepening and expanding trade and investment ties between sub-Saharan Africa and the United States.

Sec. 109. Agricultural technical assistance for sub-Saharan Africa.

Sec. 110. Reports.

Sec. 111. Technical amendments.

Sec. 112. Definitions.

TITLE II—EXTENSION OF GENERALIZED SYSTEM OF PREFERENCES

Sec. 201. Extension of Generalized System of Preferences.

Sec. 202. Authority to designate certain cotton articles as eligible articles only for least-developed beneficiary developing countries under Generalized System of Preferences.

Sec. 203. Application of competitive need limitation and waiver under Generalized System of Preferences with respect to articles of beneficiary developing countries exported to the United States during calendar year 2014.

Sec. 204. Eligibility of certain luggage and travel articles for duty-free treatment under the Generalized System of Preferences.

TITLE III—EXTENSION OF PREFERENTIAL DUTY TREATMENT PROGRAM FOR HAITI

Sec. 301. Extension of preferential duty treatment program for Haiti.

TITLE IV—EXTENSION OF TRADE ADJUSTMENT ASSISTANCE

Sec. 401. Short title.

Sec. 402. Application of provisions relating to trade adjustment assistance.

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- Sec. 403. Extension of trade adjustment assistance program.
- Sec. 404. Performance measurement and reporting.
- Sec. 405. Applicability of trade adjustment assistance provisions.
- Sec. 406. Sunset provisions.
- Sec. 407. Extension and modification of Health Coverage Tax Credit.

TITLE V—IMPROVEMENTS TO ANTIDUMPING AND COUNTERVAILING
DUTY LAWS

- Sec. 501. Short title.
- Sec. 502. Consequences of failure to cooperate with a request for information in a proceeding.
- Sec. 503. Definition of material injury.
- Sec. 504. Particular market situation.
- Sec. 505. Distortion of prices or costs.
- Sec. 506. Reduction in burden on Department of Commerce by reducing the number of voluntary respondents.
- Sec. 507. Application to Canada and Mexico.

TITLE VI—TARIFF CLASSIFICATION OF CERTAIN ARTICLES

- Sec. 601. Tariff classification of recreational performance outerwear.
- Sec. 602. Duty treatment of protective active footwear.

TITLE VII—MISCELLANEOUS PROVISIONS

- Sec. 701. Report on contribution of trade preference programs to reducing poverty and eliminating hunger.

TITLE VIII—OFFSETS

- Sec. 801. Customs user fees extension.
- Sec. 802. Additional customs user fees extension.
- Sec. 803. Time for payment of corporate estimated taxes.
- Sec. 804. Payee statement required to claim certain education tax benefits.
- Sec. 805. Special rule for educational institutions unable to collect TINs of individuals with respect to higher education tuition and related expenses.
- Sec. 806. Penalty for failure to file correct information returns and provide payee statements.
- Sec. 807. Child tax credit not refundable for taxpayers electing to exclude foreign earned income from tax.
- Sec. 808. Coverage and payment for renal dialysis services for individuals with acute kidney injury.

TITLE I—EXTENSION OF AFRICAN GROWTH AND OPPORTUNITY ACT

SEC. 101. SHORT TITLE.

This title may be cited as the “AGOA Extension and Enhancement Act of 2015”.

SEC. 102. FINDINGS.

Congress finds the following:

(1) Since its enactment, the African Growth and Opportunity Act has been the centerpiece of trade relations between the United States and sub-Saharan Africa and has enhanced trade, investment, job creation, and democratic institutions throughout Africa.

(2) Trade and investment, as facilitated by the African Growth and Opportunity Act, promote economic growth, development, poverty reduction, democracy, the rule of law, and stability in sub-Saharan Africa.

(3) Trade between the United States and sub-Saharan Africa has more than tripled since the enactment of the African Growth and Opportunity Act in 2000, and United States direct investment in sub-Saharan Africa has grown almost sixfold.

(B) may be made on an amended return.

(g) AGENCY OUTREACH.—As soon as possible after the date of the enactment of this Act, the Secretaries of the Treasury, Health and Human Services, and Labor (or such Secretaries' delegates) and the Director of the Pension Benefit Guaranty Corporation (or the Director's delegate) shall carry out programs of public outreach, including on the Internet, to inform potential eligible individuals (as defined in section 35(c)(1) of the Internal Revenue Code of 1986) of the extension of the credit under section 35 of the Internal Revenue Code of 1986 and the availability of the election to claim such credit retroactively for coverage months beginning after December 31, 2013.

TITLE V—IMPROVEMENTS TO ANTI-DUMPING AND COUNTERVAILING DUTY LAWS

SEC. 501. SHORT TITLE.

This title may be cited as the “American Trade Enforcement Effectiveness Act”.

SEC. 502. CONSEQUENCES OF FAILURE TO COOPERATE WITH A REQUEST FOR INFORMATION IN A PROCEEDING.

Section 776 of the Tariff Act of 1930 (19 U.S.C. 1677e) is amended—

(1) in subsection (b)—

(A) by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by moving such subparagraphs, as so redesignated, 2 ems to the right;

(B) by striking “ADVERSE INFERENCES.—If” and inserting the following: “ADVERSE INFERENCES.—“(1) IN GENERAL.—If”;

(C) by striking “under this title, may use” and inserting the following: “under this title—

“(A) may use”; and

(D) by striking “facts otherwise available. Such adverse inference may include” and inserting the following: “facts otherwise available; and

“(B) is not required to determine, or make any adjustments to, a countervailable subsidy rate or weighted average dumping margin based on any assumptions about information the interested party would have provided if the interested party had complied with the request for information.

“(2) POTENTIAL SOURCES OF INFORMATION FOR ADVERSE INFERENCES.—An adverse inference under paragraph (1)(A) may include”;

(2) in subsection (c)—

(A) by striking “CORROBORATION OF SECONDARY INFORMATION.—When the” and inserting the following: “CORROBORATION OF SECONDARY INFORMATION.—

“(1) IN GENERAL.—Except as provided in paragraph (2), when the”; and

(B) by adding at the end the following:

"(2) EXCEPTION.—The administrative authority and the Commission shall not be required to corroborate any dumping margin or countervailing duty applied in a separate segment of the same proceeding"; and

(3) by adding at the end the following:

"(d) SUBSIDY RATES AND DUMPING MARGINS IN ADVERSE INFERENCE DETERMINATIONS.—

"(1) IN GENERAL.—If the administering authority uses an inference that is adverse to the interests of a party under subsection (b)(1)(A) in selecting among the facts otherwise available, the administering authority may—

"(A) in the case of a countervailing duty proceeding—

"(i) use a countervailable subsidy rate applied for the same or similar program in a countervailing duty proceeding involving the same country; or

"(ii) if there is no same or similar program, use a countervailable subsidy rate for a subsidy program from a proceeding that the administering authority considers reasonable to use; and

"(B) in the case of an antidumping duty proceeding, use any dumping margin from any segment of the proceeding under the applicable antidumping order.

"(2) DISCRETION TO APPLY HIGHEST RATE.—In carrying out paragraph (1), the administering authority may apply any of the countervailable subsidy rates or dumping margins specified under that paragraph, including the highest such rate or margin, based on the evaluation by the administering authority of the situation that resulted in the administering authority using an adverse inference in selecting among the facts otherwise available.

"(3) NO OBLIGATION TO MAKE CERTAIN ESTIMATES OR ADDRESS CERTAIN CLAIMS.—If the administering authority uses an adverse inference under subsection (b)(1)(A) in selecting among the facts otherwise available, the administering authority is not required, for purposes of subsection (c) or for any other purpose—

"(A) to estimate what the countervailable subsidy rate or dumping margin would have been if the interested party found to have failed to cooperate under subsection (b)(1) had cooperated; or

"(B) to demonstrate that the countervailable subsidy rate or dumping margin used by the administering authority reflects an alleged commercial reality of the interested party."

SEC. 503. DEFINITION OF MATERIAL INJURY.

(a) EFFECT OF PROFITABILITY OF DOMESTIC INDUSTRIES.—Section 771(7) of the Tariff Act of 1930 (19 U.S.C. 1677(7)) is amended by adding at the end the following:

"(J) EFFECT OF PROFITABILITY.—The Commission may not determine that there is no material injury or threat of material injury to an industry in the United States merely because that industry is profitable or because the performance of that industry has recently improved."

(b) EVALUATION OF IMPACT ON DOMESTIC INDUSTRY IN DETERMINATION OF MATERIAL INJURY.—Subclause (I) of section

771(7)(C)(iii) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iii)) is amended to read as follows:

“(I) actual and potential decline in output, sales, market share, gross profits, operating profits, net profits, ability to service debt, productivity, return on investments, return on assets, and utilization of capacity.”

(c) CAPTIVE PRODUCTION.—Section 771(7)(C)(iv) of the Tariff Act of 1930 (19 U.S.C. 1677(7)(C)(iv)) is amended—

- (1) in subclause (I), by striking the comma and inserting “, and”;
- (2) in subclause (II), by striking “, and” and inserting a comma; and
- (3) by striking subclause (III).

SEC. 504. PARTICULAR MARKET SITUATION.

(a) DEFINITION OF ORDINARY COURSE OF TRADE.—Section 771(15) of the Tariff Act of 1930 (19 U.S.C. 1677(15)) is amended by adding at the end the following:

“(C) Situations in which the administering authority determines that the particular market situation prevents a proper comparison with the export price or constructed export price.”

(b) DEFINITION OF NORMAL VALUE.—Section 773(a)(1)(B)(ii)(III) of the Tariff Act of 1930 (19 U.S.C. 1677b(a)(1)(B)(ii)(III)) is amended by striking “in such other country.”

(c) DEFINITION OF CONSTRUCTED VALUE.—Section 773(e) of the Tariff Act of 1930 (19 U.S.C. 1677b(e)) is amended—

- (1) in paragraph (1), by striking “business” and inserting “trade”; and
- (2) by striking the flush text at the end and inserting the following:

“For purposes of paragraph (1), if a particular market situation exists such that the cost of materials and fabrication or other processing of any kind does not accurately reflect the cost of production in the ordinary course of trade, the administering authority may use another calculation methodology under this subtitle or any other calculation methodology. For purposes of paragraph (1), the cost of materials shall be determined without regard to any internal tax in the exporting country imposed on such materials or their disposition that is remitted or refunded upon exportation of the subject merchandise produced from such materials.”

SEC. 505. DISTORTION OF PRICES OR COSTS.

(a) INVESTIGATION OF BELOW-COST SALES.—Section 773(b)(2) of the Tariff Act of 1930 (19 U.S.C. 1677b(b)(2)) is amended by striking subparagraph (A) and inserting the following:

“(A) REASONABLE GROUNDS TO BELIEVE OR SUSPECT.—

“(i) REVIEW.—In a review conducted under section 751 involving a specific exporter, there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that are less than the cost of production of the product if the administering authority disregarded some or all of the exporter’s sales pursuant to paragraph (1) in the investigation or, if a review has been completed, in the most recently completed review.

"(ii) REQUESTS FOR INFORMATION.—In an investigation initiated under section 732 or a review conducted under section 751, the administering authority shall request information necessary to calculate the constructed value and cost of production under subsections (e) and (f) to determine whether there are reasonable grounds to believe or suspect that sales of the foreign like product have been made at prices that represent less than the cost of production of the product."

(b) PRICES AND COSTS IN NONMARKET ECONOMIES.—Section 773(c) of the Tariff Act of 1930 (19 U.S.C. 1677b(c)) is amended by adding at the end the following:

"(5) DISCRETION TO DISREGARD CERTAIN PRICE OR COST VALUES.—In valuing the factors of production under paragraph (1) for the subject merchandise, the administering authority may disregard price or cost values without further investigation if the administering authority has determined that broadly available export subsidies existed or particular instances of subsidization occurred with respect to those price or cost values or if those price or cost values were subject to an antidumping order."

SEC. 506. REDUCTION IN BURDEN ON DEPARTMENT OF COMMERCE BY REDUCING THE NUMBER OF VOLUNTARY RESPONDENTS.

Section 782(a) of the Tariff Act of 1930 (19 U.S.C. 1677m(a)) is amended—

(1) in paragraph (1), by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by moving such clauses, as so redesignated, 2 ems to the right;

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and by moving such subparagraphs, as so redesignated, 2 ems to the right;

(3) by striking "INVESTIGATIONS AND REVIEWS.—In" and inserting the following: "INVESTIGATIONS AND REVIEWS.—

"(1) IN GENERAL.—In";

(4) in paragraph (1), as designated by paragraph (3), by amending subparagraph (B), as redesignated by paragraph (2), to read as follows:

"(B) the number of exporters or producers subject to the investigation or review is not so large that any additional individual examination of such exporters or producers would be unduly burdensome to the administering authority and inhibit the timely completion of the investigation or review."; and

(5) by adding at the end the following:

"(2) DETERMINATION OF UNDULY BURDENSOME.—In determining if an individual examination under paragraph (1)(B) would be unduly burdensome, the administering authority may consider the following:

"(A) The complexity of the issues or information presented in the proceeding, including questionnaires and any responses thereto.

"(B) Any prior experience of the administering authority in the same or similar proceeding.

"(C) The total number of investigations under subtitle A or B and reviews under section 751 being conducted

by the administering authority as of the date of the determination.

“(D) Such other factors relating to the timely completion of each such investigation and review as the administering authority considers appropriate.”.

SEC. 507. APPLICATION TO CANADA AND MEXICO.

Pursuant to article 1902 of the North American Free Trade Agreement and section 408 of the North American Free Trade Agreement Implementation Act (19 U.S.C. 3438), the amendments made by this title shall apply with respect to goods from Canada and Mexico.

TITLE VI—TARIFF CLASSIFICATION OF CERTAIN ARTICLES

SEC. 601. TARIFF CLASSIFICATION OF RECREATIONAL PERFORMANCE OUTERWEAR.

(a) AMENDMENTS TO ADDITIONAL U.S. NOTES.—The Additional U.S. Notes to chapter 62 of the Harmonized Tariff Schedule of the United States are amended—

(1) in Additional U.S. Note 2—

(A) by striking “For the purposes of subheadings” and all that follows through “6211.20.15” and inserting “For purposes of this chapter”;

(B) by striking “garments classifiable in those subheadings” and inserting “a garment”; and

(C) by striking “D 3600-81” and inserting “D 3779-81”; and

(2) by adding at the end the following new notes:

“(c) For purposes of this chapter, the term ‘recreational performance outerwear’ means trousers (including, but not limited to, padding pants, ski or snowboard pants, and ski or snowboard pants intended for sale as parts of ski-suits), coveralls and bib overalls, and jackets (including, but not limited to, full zip jackets, padding jackets, ski jackets, and ski jackets intended for sale as parts of ski-suits), windbreakers, and similar articles (including padded, sleeveless jackets) composed of fabrics of cotton, wool, hemp, bamboo, silk, or manmade fiber, or a combination of such fibers, that are either water resistant or treated with plastics, or both, with critically sealed seams, and with five or more of the following features:

“(1) Insulation for cold weather protection.

“(2) Pockets, at least one of which has a zippered, hook and loop, or other type of closure.

“(3) Elastic, drawcord, or other means of tightening around the waist or leg hems, including hidden leg sleeves with a means of tightening at the ankle for trousers and tightening around the waist or bottom hem for jackets.

“(4) Venting, not including grommet(s).

“(5) Articulated elbows or knees.

“(6) Reinforcement in one of the following areas: the elbows, shoulders, seat, knees, ankles, or cuffs.

“(7) Weatherproof closure at the waist or front.

“(8) Multi-adjustable hood or adjustable collar.

