

Presidential Documents

Title 3—

The President

Proclamation 8618 of December 21, 2010

To Take Certain Actions Under the African Growth and Opportunity Act, 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. In Proclamation 7657 of March 28, 2003, the President designated the Democratic Republic of Congo (DRC) as an eligible sub-Saharan African country pursuant to section 104 of the AGOA.
4. Proclamation 7657 also authorized the United States Trade Representative (USTR) to exercise the authority provided to the President under section 506A(a)(1) of the 1974 Act to designate the DRC as a beneficiary sub-Saharan African country.
5. Pursuant to the authority delegated to the USTR, on October 31, 2003, the USTR designated the DRC as a beneficiary sub-Saharan African country (68 FR 62158–04).
6. Section 506A(a)(3) of the 1974 Act (19 U.S.C. 2466a(a)(3)) authorizes the President to terminate the designation of a country as a beneficiary sub-Saharan African country for purposes of section 506A if he determines that the country is not making continual progress in meeting the requirements described in section 506A(a)(1) of the 1974 Act.
7. Pursuant to section 506A(a)(3) of the 1974 Act, I have determined that the DRC is not making continual progress in meeting the requirements described in section 506A(a)(1) of the 1974 Act. Accordingly, I have decided to terminate the designation of the DRC as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act, effective on January 1, 2011.
8. On April 22, 1985, the United States and Israel entered into the Agreement on the Establishment of a Free Trade Area between the Government of the United States of America and the Government of Israel (the “USIFTA”), which the Congress approved in the United States-Israel Free Trade Area Implementation Act of 1985 (the “USIFTA Act”) (19 U.S.C. 2112 note).
9. Section 4(b) of the USIFTA Act provides that, whenever the President determines that it is necessary to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, the President may proclaim such withdrawal, suspension, modification, or continuance of any duty, or such continuance of existing

duty-free or excise treatment, or such additional duties as the President determines to be required or appropriate to carry out the USIFTA.

10. In order to maintain the general level of reciprocal and mutually advantageous concessions with respect to agricultural trade with Israel, on July 27, 2004, the United States entered into an agreement with Israel concerning certain aspects of trade in agricultural products during the period January 1, 2004, through December 31, 2008 (the “2004 Agreement”).

11. In Proclamation 7826 of October 4, 2004, consistent with the 2004 Agreement, the President determined, pursuant to section 4(b) of the USIFTA Act, that it was necessary in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, to provide duty-free access into the United States through December 31, 2008, for specified quantities of certain agricultural products of Israel.

12. On December 10, 2008, the United States entered into an agreement with Israel to extend the period that the 2004 Agreement is in force through December 31, 2009, to allow additional time for the two governments to conclude an agreement to replace the 2004 Agreement.

13. In Proclamation 8334 of December 31, 2008, the President determined that it was necessary in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA to extend such duty-free treatment through December 31, 2009. In that proclamation, the President also modified the Harmonized Tariff Schedule of the United States (HTS) to provide duty-free access into the United States through December 31, 2009, for specified quantities of certain agricultural products of Israel.

14. On December 6, 2009, the United States entered into a further agreement with Israel to extend the period that the 2004 Agreement is in force through December 31, 2010, to allow for further negotiations on an agreement to replace the 2004 Agreement.

15. In Proclamation 8467 of December 23, 2009, I determined that it was necessary in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA to extend such duty-free treatment through December 31, 2010. In that proclamation, I also modified the HTS to provide duty-free access into the United States through December 31, 2010, for specified quantities of certain agricultural products of Israel.

16. On December 12, 2010, the United States entered into a further agreement with Israel to extend the period that the 2004 Agreement is in force through December 31, 2011, to allow for further negotiations on an agreement to replace the 2004 Agreement.

17. Pursuant to section 4(b) of the USIFTA Act, I have determined that it is necessary, in order to maintain the general level of reciprocal and mutually advantageous concessions with respect to Israel provided for by the USIFTA, to provide duty-free access into the United States through the close of December 31, 2011, for specified quantities of certain agricultural products of Israel.

18. During the Uruguay Round of Multilateral Trade Negotiations (the “Uruguay Round”), a group of major trading countries agreed to reciprocal elimination of tariffs on certain pharmaceuticals and chemical intermediates, and that participants in this agreement would revise periodically the list of products subject to duty-free treatment. On December 13, 1996, as the result of negotiations under the auspices of the World Trade Organization (WTO), the United States and 16 other WTO members agreed to eliminate tariffs on additional pharmaceuticals and chemical intermediates. The United States implemented this agreement in Proclamation 6982 of April 1, 1997. In 1998, the United States and 21 other WTO members negotiated a second revision to the list of products subject to duty-free treatment. The United

States implemented this revision in Proclamation 7207 of July 1, 1999. In 2006, the United States and 30 other WTO members concluded negotiations, under the auspices of the WTO, on a further revision to the list of pharmaceuticals and chemical intermediates subject to duty-free treatment. The United States implemented this revision in Proclamation 8095 of December 29, 2006. The United States and 31 other WTO members have negotiated, under the auspices of the WTO, a fourth revision to the list of pharmaceuticals and chemical intermediates subject to duty-free treatment.

19. Section 111(b) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3521(b)) authorizes the President under specified circumstances to proclaim the modification of any duty or staged rate reduction of any duty set forth in Schedule XX—United States of America, annexed to the Marrakesh Protocol to the GATT 1994 (Schedule XX) for products that were the subject of reciprocal duty elimination negotiations during the Uruguay Round, if the United States agrees to such action in a multilateral negotiation under the auspices of the WTO.

20. On September 15, 2010, consistent with section 115 of the URAA (19 U.S.C. 3524), the USTR submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that set forth the proposed further revision to the list of pharmaceuticals and chemical intermediates subject to duty-free treatment. The consultation and layover period specified in section 115 ended on November 14, 2010.

21. Pursuant to section 111(b) of the URAA, I have determined that Schedule XX should be modified to reflect the implementation by the United States of the multilateral agreement on certain pharmaceuticals and chemical intermediates negotiated under the auspices of the WTO. In addition, I have determined that the pharmaceuticals appendix to the HTS should be modified to reflect the duty eliminations provided for in that agreement.

22. Section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483), authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other Acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, BARACK OBAMA, President of the United States of America, by virtue of 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, title V and section 604 of the 1974 Act, section 4 of the USIFTA Act, and section 111 of the URAA do proclaim that:

(1) The designation of the DRC as a beneficiary sub-Saharan African country for purposes of section 506A of the 1974 Act is terminated, effective on January 1, 2011.

(2) In order to reflect in the HTS that beginning on January 1, 2011, the DRC shall no longer be designated as a beneficiary sub-Saharan African country, general note 16(a) to the HTS is modified by deleting “Democratic Republic of Congo” from the list of beneficiary sub-Saharan African countries.

(3) In order to implement U.S. tariff commitments under the 2004 Agreement through December 31, 2011, the HTS is modified as provided in the Annex to this proclamation.

(4)(a) The modifications to the HTS made by the Annex to this proclamation shall be effective with respect to goods that are the product of Israel and are entered, or withdrawn from warehouse for consumption, on or after January 1, 2011.

(b) The provisions of subchapter VIII of chapter 99 of the HTS, as modified by the Annex to this proclamation, shall continue in effect through December 31, 2011.

(5) In order to implement the multilateral agreement negotiated under the auspices of the WTO to eliminate tariffs on certain pharmaceutical

products and chemical intermediates, and to make technical corrections in the tariff treatment accorded to such products, the HTS is modified as set forth in Publication 4208 of the United States International Trade Commission, entitled "Modifications to the Harmonized Tariff Schedule of the United States to Implement Changes to the Pharmaceutical Appendix" (Publication 4208), which is incorporated by reference into this proclamation.

(6) The modifications to the HTS made in Publication 4208 shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after January 1, 2011.

(7) 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 twenty-first day of December, in the year of our Lord two thousand ten, and of the Independence of the United States of America the two hundred and thirty-fifth.



ANNEX**TO EXTEND TEMPORARILY CERTAIN PROVISIONS OF
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Effective with respect to eligible agricultural products of Israel which are entered, or withdrawn from warehouse for consumption, on or after January 1, 2011 and before the close of December 31, 2011, subchapter VIII of chapter 99 of the Harmonized Tariff Schedule of the United States is hereby modified as follows:

1. U.S. note 1 to such subchapter is modified by deleting "December 31, 2010" and by inserting in lieu thereof "December 31, 2011".

2. U.S. note 3 to such subchapter is modified by adding at the end of the tabulation the following material, in the two columns specified in such note: "Calendar year 2011 466,000".

3. U.S. note 4 to such subchapter is modified by adding at the end of the tabulation the following material, in the two columns specified in such note: "Calendar year 2011 1,304,000".

4. U.S. note 5 to such subchapter is modified by adding at the end of the tabulation the following material, in the two columns specified in such note: "Calendar year 2011 1,534,000".

5. U.S. note 6 to such subchapter is modified by adding at the end of the tabulation the following material, in the two columns specified in such note: "Calendar year 2011 131,000".

6. U.S. note 7 to such subchapter is modified by adding at the end of the tabulation the following material, in the two columns specified in such note: "Calendar year 2011 707,000".