

DESCRIPTION OF THE CHAIRMAN’S MARK TO AMEND THE AFRICAN GROWTH AND OPPORTUNITY ACT TO EXTEND THE THIRD-COUNTRY FABRIC PROGRAM AND TO ADD SOUTH SUDAN TO THE LIST OF COUNTRIES ELIGIBLE FOR DESIGNATION UNDER THAT ACT, TO MAKE TECHNICAL CORRECTIONS TO THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES RELATING TO THE TEXTILE AND APPAREL RULES OF ORIGIN FOR THE DOMINICAN REPUBLIC-CENTRAL AMERICA-UNITED STATES FREE TRADE AGREEMENT, AND TO APPROVE THE RENEWAL OF IMPORT RESTRICTIONS CONTAINED IN THE BURMESE FREEDOM AND DEMOCRACY ACT OF 2003

Scheduled for Markup
by the
Senate Committee on Finance
on July 18, 2012

I. Introduction

The Senate Committee on Finance has scheduled a markup of a proposal to amend the African Growth and Opportunity Act to extend the third-country fabric program and to add South Sudan to the list of countries eligible for designation under that Act, to make technical corrections to the Harmonized Tariff Schedule of the United States relating to the textile and apparel rules of origin for the Dominican Republic-Central America-United States Free Trade Agreement, to approve the renewal of import restrictions contained in the Burmese Freedom and Democracy Act of 2003, and for other purposes. This document provides a description of the proposal.

II. Proposal

A. Amendments to the African Growth and Opportunity Act (section 1)

Present Law

In 2000, Congress amended the Trade Act of 1974 to establish U.S. trade and investment preferences for sub-Saharan Africa in the African Growth and Opportunity Act (“AGOA”). AGOA offers trade preferences and other economic benefits to sub-Saharan African countries that meet certain criteria, including progress towards a market economy, respect for the rule of law, and human and worker rights. AGOA includes a list of all sub-Saharan African countries that are eligible to receive the trade preferences. AGOA expires on September 30, 2015.

AGOA has been amended several times since its initial enactment. In 2002, Congress amended AGOA to further increase market access for products from sub-Saharan Africa. In 2004, Congress passed legislation further amending AGOA, extending its benefits beyond the original deadline and clarifying certain provisions. This legislation also included directives to the President on investment initiatives and technical assistance. Congress passed legislation in 2006 that further amended AGOA and extended certain provisions concerning textile and apparel imports to 2012. One of these provisions, which permits imports of apparel made in designated lesser-developed sub-Saharan African countries of third-country yarns and fabrics (meaning that the yarns and fabrics may come from any country), subject to a cap, expires on September 30, 2012.

Lesser-developed countries are defined in AGOA as those with a per capita gross national product of less than \$1,500 per year as measured by the World Bank. In subsequent amendments of AGOA, Botswana, Namibia, and Mauritius were also added to the list of lesser-developed countries. At present, 27 AGOA-eligible countries qualify for the third-country fabric provision

Description of Proposal

The proposal amends section 112(c)(1) of AGOA to extend the third-country fabric provision through September 30, 2015. It also adds the “Republic of South Sudan (South Sudan)” to the list of AGOA-eligible beneficiary countries and makes a conforming amendment to strike “48” in section 102(2) of the Act.

Effective Date

The amendments made by this section take effect on the date of enactment of the Act.

B. Modifications to Textile and Apparel Rules of Origin for the Dominican Republic-Central America-United States Free Trade Agreement (section 2)

Present Law

On August 5, 2004, the United States entered into the Dominican Republic-Central America-United States Free Trade Agreement (“CAFTA-DR”). Congress passed the implementing bill on July 28, 2005, and CAFTA-DR entered into force with El Salvador, Guatemala, Honduras, and Nicaragua during 2006; the Dominican Republic in 2007; and Costa Rica in 2009. This permanent, comprehensive, and reciprocal trade agreement eliminates tariff and non-tariff barriers to two-way trade and provides rules and other standards for services, intellectual property rights, government procurement, investment, textiles, and other disciplines.

Description of Proposal

In February 2011, the CAFTA-DR trade ministers agreed to make several non-controversial technical corrections and modifications to the rules of origin for certain textile and apparel products under CAFTA-DR. The proposal implements these technical corrections and modifications. These corrections include a change clarifying that certain monofilament sewing thread is required to be produced in the United States or the CAFTA-DR region in order for goods to qualify for preferential tariff treatment. The other modifications clarify or correct the language used in the text of the CAFTA-DR. Such changes relate to the treatment of certain nightwear, as well as the treatment of several products under the “short supply” list in the CAFTA-DR. These products include elastomeric yarns, knit waistbands, and knit-to-shape components.

Effective Date

The amendments made by this section apply to goods of a CAFTA-DR country that are entered, or withdrawn from warehouse for consumption, on or after the date that the U.S. Trade Representative determines is the first date on which the equivalent amendments to the rules of origin of CAFTA-DR have entered into force in all CAFTA-DR countries.

C. Extension of and Renewal of Import Restrictions Under Burmese Freedom and Democracy Act of 2003 (section 3)

Present Law

The Burmese Freedom and Democracy Act of 2003 (“BFDA”) requires the President to ban the importation into the United States of any article that is a product of Burma until such time that (1) the Burmese government makes progress to end violations of internationally recognized human rights, and the Secretary of State reports that the Burmese government no longer systematically violates workers’ rights and engages in the conscription of child soldiers; (2) the Burmese government makes progress toward implementing a democratic government; and (3) Burma is no longer designated as a country that has failed demonstrably to adhere to its obligations under international counternarcotics agreements and take other effective counternarcotics measures. In addition to import restrictions, the BFDA contains a visa ban for certain government officials and prohibits U.S. support for loans from International Financial Institutions.

In 2008, Congress approved the Tom Lantos Block Burmese JADE (Junta’s Anti-Democratic Efforts) Act, which amended the BFDA to prohibit the importation into the United States of jewelry from any country that contains jadeite or rubies mined in Burma.

The BFDA provides that Congress must annually renew the BFDA import restrictions described above by joint resolution of the Senate and House of Representatives. Once renewed, the import restrictions remain in force for a one-year period. The BFDA further provides that Congress may approve such annual renewal resolutions for a maximum of nine years from the date of enactment, or until 2012.

Description of Proposal

The amendment made by this section reauthorizes the import sanctions in the BFDA for an additional three years, through July 2015. In addition, the amendment provides annual renewal for the import sanctions, such that the sanctions will remain in place until at least July 2013.

Effective Date

The effective date of the proposal is the date of enactment or July 26, 2012, whichever comes first.

D. Time for Payment of Corporate Estimated Taxes (section 4)

Present Law

In general, corporations are required to make quarterly estimated tax payments of their income tax liability. For a corporation whose taxable year is a calendar year, these estimated tax payments must be made by April 15, June 15, September 15, and December 15.

Description of Proposal

The proposal increases the amount of the required installment of estimated tax otherwise due in July, August, or September, 2017, by 0.25 percent of such amount (determined without regard to any increase in such amount not contained in the Internal Revenue Code) for corporations with assets of at least \$1 billion (determined as of the end of the preceding taxable year). For each of the periods impacted, the next required installment is reduced accordingly.

Effective Date

The proposal is effective on the date of enactment of the bill.

E. Extension of Customs User Fees (section 5)

Present Law

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”) authorized the Secretary of the Treasury to collect certain service fees. Section 412 of the Homeland Security Act of 2002 authorized the Secretary of the Treasury to delegate such authority to the Secretary of Homeland Security. Provided for under 19 U.S.C. 58c, these fees include processing fees for air and sea passengers, commercial trucks, rail cars, private aircraft and vessels, commercial vessels, dutiable mail packages, barges and bulk carriers, merchandise, and Customs broker permits. COBRA was amended on several occasions. The current authorization for the collection of the passenger and conveyance processing fees is through September 30, 2021. The current authorization for the collection of the merchandise processing fees is through September 30, 2021.

Description of Proposal

The proposal extends the passenger and conveyance processing fees authorized under section 13031(j)(3)(B)(i) of COBRA from September 30, 2021 through October 22, 2021. The proposal also extends the merchandise processing fees authorized under section 13031(j)(3)(A) of COBRA from September 30, 2021 through October 29, 2021.

Effective Date

The proposal is effective on the date of enactment of the bill.