

Proclamation 8788—To Modify Duty-Free Treatment Under the Generalized System of Preferences and for Other Purposes

March 26, 2012

By the President of the United States of America

A Proclamation

1. Section 502(b)(2)(E) of the Trade Act of 1974, as amended (the "1974 Act") (19 U.S.C. 2462(b)(2)(E)), provides that the President shall not designate any country a beneficiary developing country under the Generalized System of Preferences (GSP) if such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association that is 50 percent or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute. Section 502(d)(2) (19 U.S.C. 2462(d)(2)) provides that, after complying with the requirements of section 502(f)(2) (19 U.S.C. 2462(f)(2)), the President shall withdraw or suspend the designation of any country as a beneficiary developing country if, after such designation, the President determines that as the result of changed circumstances such country would be barred from designation as a beneficiary developing country under section 502(b)(2). Section 502(f)(2) requires the President to notify the Congress and the country concerned at least 60 days before terminating the country's designation as a beneficiary developing country for purposes of the GSP.

2. Having considered the factors set forth in section 502(b)(2)(E) of the 1974 Act, I have determined pursuant to section 502(d) that it is appropriate to suspend Argentina's designation as a GSP beneficiary developing country because it has not acted in good faith in enforcing arbitral awards in favor of United States citizens or a corporation, partnership, or association that is 50 percent or more beneficially owned by United States citizens, and I will so notify the Congress. In order to reflect the suspension of Argentina's status as a beneficiary developing country under the GSP, I have determined that it is appropriate to modify general note 4(a) of the Harmonized Tariff Schedule of the United States (HTS).

3. Pursuant to section 502(a) of the 1974 Act (19 U.S.C. 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 GSP. Section 502(f)(1)(A) (19 U.S.C. 2462(f)(1)(A)) requires the President to notify the Congress before designating any country as a beneficiary developing country. Section 502(f)(1)(B) (19 U.S.C. 2462(f)(1)(B)) requires the President to notify the Congress at least 60 days before designating any country as a least-developed beneficiary country.

4. Pursuant to section 502(a)(1) of the 1974 Act, having considered the factors set forth in section 502(c) (19 U.S.C. 2462(c)), I have determined that the Republic of South Sudan should be designated as a beneficiary developing country under the GSP, and I will so notify the Congress.

5. Pursuant to section 502(a)(2) of the 1974 Act, having considered the factors set forth in section 502(c), I have determined that the Republic of South Sudan should also be designated

as a least-developed beneficiary developing country for purposes of the GSP, and I will so notify the Congress.

6. Section 203(o) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the "CAFTA-DR Implementation Act") (19 U.S.C. 4033(o)) authorizes the President to proclaim as part of the HTS the provisions set out in Annex 4.1 of the Dominican Republic- Central America-United States Free Trade Agreement (CAFTA-DR).

7. Appendix 4.1-B of Annex 4.1 of the CAFTA-DR provides that "[f]or purposes of determining whether a good of chapter 62 of the Harmonized System is originating, materials used in the production of such a good that are produced in Canada or Mexico and that would be originating under this Agreement if produced in the territory of a Party shall be considered as having been produced in the territory of a Party." For the Dominican Republic, this rule entered into effect only with regard to Mexico. Furthermore, under the terms of Appendix 4.1-B, for operations performed in the Dominican Republic, this rule would no longer apply to Mexican-produced materials 5 years from the date CAFTA-DR enters into force, unless within that 5-year period, the Dominican Republic concludes a free trade agreement with Mexico and provides written notification to the United States and other Parties to the CAFTA-DR that the Dominican Republic and Mexico have taken actions necessary to provide reciprocal application of the rule. The 5-year period expired on March 1, 2012, and the Dominican Republic has not concluded a free trade agreement with Mexico. Accordingly, the rule set out in Appendix 4.1-B to Annex 4.1 of the CAFTA-DR, no longer applies to operations performed in the Dominican Republic, and the HTS must be modified to implement this provision of Annex 4.1.

8. Section 3 of the Haiti Economic Lift Program Act of 2010, Public Law 111–171, amended section 213(b) of the Caribbean Basin Economic Recovery Act, as amended (19 U.S.C. 2703(b)), to extend the duration of duty-free treatment for certain apparel articles qualifying as the product of a beneficiary country under the Caribbean Basin Trade Partnership Act until September 30, 2020. A modification to the HTS needs to be made to reflect this amendment.

9. Presidential Proclamation 8771 of December 29, 2011, modified the HTS to conform it to the International Convention on the Harmonized Commodity Description and Coding System (the "Convention"). Technical corrections to the HTS are necessary to ensure conformity with the Convention.

10. Presidential Proclamation 8783 of March 6, 2012, authorized the United States Trade Representative to modify U.S. note 4 to subchapter XX of chapter 99 of the HTS in a notice published in the *Federal Register* to reflect modifications made by the Committee for the Implementation of Textile Agreements (CITA) to the list of fabrics, yarns, or fibers in Annex 4-B-1 of the United States-Korea Free Trade Agreement. That authorization erroneously referred to paragraph (6), and instead should refer to paragraph (5) of that proclamation.

11. Section 604 of the 1974 Act (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 title V and section 604 of the 1974 Act, section 203(o) of the

CAFTA-DR Implementation Act, and section 301 of title 3, United States Code, do proclaim that:

(1) The designation of Argentina as a beneficiary developing country under the GSP is suspended on the date that is 60 days after the date this proclamation is published in the *Federal Register*.

(2) In order to reflect the suspension of Argentina's designation as a beneficiary developing country under the GSP, general note 4 of the HTS is modified as set forth in section A of the Annex to this proclamation, effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 60 days after the date this proclamation is published in the *Federal Register*.

(3) The Republic of South Sudan is designated as a beneficiary developing country for purposes of the GSP, effective on the date that is 20 days after the date of this proclamation.

(4) In order to reflect this designation in the HTS, general note 4(a) to the HTS is modified by adding in alphabetical order "South Sudan" to the list entitled, "Independent Countries," effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 20 days after the date of this proclamation.

(5) The Republic of South Sudan is designated as a least-developed beneficiary developing country for purposes of the GSP, effective 60 days after the date this proclamation is published in the *Federal Register*.

(6) In order to reflect this designation in the HTS, general note 4(b)(i) is modified by adding in alphabetical order "South Sudan," effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date that is 60 days after the date this proclamation is published in the *Federal Register*.

(7) In order to implement Appendix 4.1-B to Annex 4.1 of the CAFTA-DR, with respect to operations performed in the Dominican Republic, the HTS is modified as set forth in section B of the Annex to this proclamation.

(8) The modifications to the HTS set forth in section B of the Annex to this proclamation shall be effective with respect to goods entered or withdrawn from warehouse for consumption on or after March 1, 2012.

(9) In order to implement section 3 of the Haiti Economic Lift Program Act of 2010, the HTS is modified as set forth in section C of the Annex to this proclamation.

(10) The modification to the HTS set forth in section C of the Annex to this proclamation shall be effective with respect to goods entered or withdrawn from warehouse for consumption, on or after May 24, 2010.

(11) In order to make the technical corrections to the HTS necessary to conform to the Convention, the HTS is modified as set forth in section D of the Annex to this proclamation.

(12) The modifications to the HTS set forth in section D of the Annex to this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after February 3, 2012.

(13) Paragraph (9) of Presidential Proclamation 8783 is amended to provide that the United States Trade Representative is authorized to modify U.S. note 4 to subchapter XX of chapter 99 of the HTS in a notice published in the *Federal Register* to reflect modifications

pursuant to paragraph (5) of Presidential Proclamation 8783 by the CITA to the list of fabrics, yarns, or fibers in Annex 4-B-1 of the United States-Korea Free Trade Agreement.

(14) 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-sixth day of March, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-sixth.

BARACK OBAMA

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NOTE: This proclamation and its annexes were published in the *Federal Register* on March 29.

Categories: Proclamations : Generalized System of Preferences, duty-free treatment, modifications.

Subjects: Commerce, international : Generalized System of Preferences (GSP).

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