
Presidential Documents

Title 3—

Proclamation 8341 of January 16, 2009

The President

To Implement The United States-Peru Trade Promotion Agreement And for Other Purposes

By the President of the United States of America

A Proclamation

1. On April 12, 2006, the United States entered into the United States-Peru Trade Promotion Agreement (the “Agreement”), and on June 24 and June 25, 2007, the Parties to the Agreement signed a protocol amending the Agreement. Congress approved the Agreement as amended in section 101(a) of the United States-Peru Trade Promotion Agreement Implementation Act (the “Implementation Act”) (Public Law 110–138, 121 Stat. 1455) (19 U.S.C. 3805 note).
2. Section 105(a) of the Implementation Act authorizes the President to establish or designate within the Department of Commerce an office that shall be responsible for providing administrative assistance to panels established under chapter 21 of the Agreement.
3. Section 201 of the Implementation Act authorizes the President to proclaim such modifications or continuation of any duty, such continuation of duty-free or excise treatment, or such additional duties, as the President determines to be necessary or appropriate to carry out or apply Articles 2.3, 2.5, 2.6, 3.3.13 and Annex 2.3 of the Agreement.
4. Section 201(d) of the Implementation Act authorizes the President to take such action as may be necessary in implementing the tariff-rate quotas set forth in Appendix I to the Schedule of the United States to Annex 2.3 of the Agreement to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States.
5. Consistent with section 201(a)(2) of the Implementation Act, Peru is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP) on the date the Agreement enters into force. Further, consistent with section 604 of the Trade Act of 1974, as amended (the “1974 Act”) (19 U.S.C. 2483), I have determined that other technical and conforming changes to the Harmonized Tariff Schedule of the United States (HTS) are necessary to reflect that Peru is no longer eligible to receive the benefits of the GSP.
6. Section 203 of the Implementation Act sets forth certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment provided for under the Agreement. I have decided that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the HTS.
7. Section 203(o) of the Implementation Act authorizes the President to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in the United States and Peru; to establish procedures governing the request for any such determination and ensuring appropriate public participation in any such determination; to add any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in the United States and Peru to the list in Annex 3-B of the Agreement in a restricted or unrestricted quantity; to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months

after adding the fabric, yarn, or fiber to the list in Annex 3-B of the Agreement in a restricted quantity; and to restrict the quantity of, or remove from the list in Annex 3-B of the Agreement, certain fabrics, yarns, or fibers.

8. Section 208 of the Implementation Act authorizes the President to take certain enforcement actions relating to trade with Peru in textile and apparel goods.

9. Subtitle B of title III of the Implementation Act authorizes the President to take certain actions in response to a request by an interested party for relief from serious damage or actual threat thereof to a domestic industry producing certain textile or apparel articles.

10. Executive Order 11651 of March 3, 1972, as amended, established the Committee for the Implementation of Textile Agreements (CITA), consisting of representatives of the Departments of State, the Treasury, Commerce, and Labor, and the Office of the United States Trade Representative, with the representative of the Department of Commerce as Chairman, to supervise the implementation of textile trade agreements. Consistent with section 301 of title 3, United States Code, when carrying out functions vested in the President by statute and assigned by the President to CITA, the officials collectively exercising those functions are all to be officers required to be appointed by the President with the advice and consent of the Senate.

11. Presidential Proclamation 7971 of December 22, 2005, implemented the United States-Morocco Free Trade Agreement (USMFTA). The proclamation implemented, pursuant to section 201 of the United States-Morocco Free Trade Agreement Implementation Act (the "USMFTA Act") (Public Law 108-302, 118 Stat. 1103) (19 U.S.C. 3805 note), the staged reductions in rates of duty that I determined to be necessary or appropriate to carry out or apply certain provisions of the USMFTA, including Articles 2.5 and 2.6. The proclamation inadvertently omitted two modifications to the HTS necessary to carry out the provisions of Articles 2.5 and 2.6 of the USMFTA. I have determined that technical corrections to the HTS are necessary to provide the intended tariff treatment under Articles 2.5 and 2.6 of the USMFTA.

12. Presidential Proclamation 8039 of July 27, 2006, implemented the United States-Bahrain Free Trade Agreement (USBFTA). The proclamation implemented, pursuant to section 201 of the United State-Bahrain Free Trade Agreement Implementation Act (the "USBFTA Act") (Public Law 109-169, 119 Stat. 3581), the staged reductions in rates of duty that I determined to be necessary or appropriate to carry out or apply certain provisions of the USBFTA, including Articles 2.5 and 2.6. The proclamation inadvertently omitted two modifications to the HTS necessary to carry out the provisions of Articles 2.5 and 2.6 of the USBFTA. I have determined that technical corrections to the HTS are necessary to provide the intended tariff treatment under Articles 2.5 and 2.6 of the USBFTA.

13. Presidential Proclamation 8331 of December 23, 2008, implemented the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) for trade with Costa Rica. The proclamation implemented, pursuant to section 201 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (the "CAFTA-DR Act") (Public Law 109-53, 119 Stat. 467) (19 U.S.C. 4031), the duty treatment necessary to carry out or apply Articles 3.3 and 3.27, and Annexes 3.3 (including the schedule of United States duty reductions with respect to originating goods) and 3.27, of the CAFTA-DR. I have determined that technical corrections to the HTS are necessary to provide the intended duty treatment under the CAFTA-DR.

14. Section 604 of the 1974 Act, 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, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

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 604 of the 1974 Act; sections 105(a), 201, 203, 208, and subtitle B of title III of the Implementation Act; and section 301 of title 3, United States Code, and having made the determination under section 101(b) of the Implementation Act necessary for the exchange of notes, do hereby proclaim: (1) In order to provide generally for the preferential tariff treatment being accorded under the Agreement, to set forth rules for determining whether goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the Agreement, to provide certain other treatment to originating goods of Peru for the purposes of the Agreement, to provide tariff-rate quotas with respect to certain originating goods of Peru, to reflect Peru's removal from the enumeration of designated beneficiary developing countries for purposes of the GSP, and to make technical and conforming changes in the general notes to the HTS, the HTS is modified as set forth in Annex I of Publication 4058 of the United States International Trade Commission, entitled, "Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Peru Trade Promotion Agreement", which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the Agreement and to provide for future staged reductions in duties for originating goods of Peru for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 4058, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3) The amendments to the HTS made by paragraphs (1) and (2) of this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the relevant dates indicated in Annex II to Publication 4058.

(4) The Secretary of Commerce is authorized to exercise my authority under section 105(a) of the Implementation Act to establish or designate an office within the Department of Commerce to carry out the functions set forth in that section.

(5) The United States Trade Representative (USTR) is authorized to exercise my authority under section 201(d) of the Implementation Act to take such action as may be necessary in implementing the tariff-rate quotas set forth in Appendix I to the Schedule of the United States to Annex 2.3 of the Agreement to ensure that imports of agricultural goods do not disrupt the orderly marketing of commodities in the United States. This action is set forth in Annex I of Publication 4058.

(6) The CITA is authorized to exercise my authority under section 203(o) of the Implementation Act to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in the United States and Peru; to establish procedures governing the request for any such determination and ensuring appropriate public participation in any such determination; to add any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in the United States and Peru to the list in Annex 3-B of the Agreement in a restricted or unrestricted quantity; to eliminate a restriction on the quantity of a fabric, yarn, or fiber within 6 months after adding the fabric, yarn, or fiber to the list in Annex 3-B of the Agreement in a restricted quantity; and to restrict the quantity of, or remove from the list in Annex 3-B of the Agreement, certain fabrics, yarns, or fibers.

(7) The CITA is authorized to exercise my authority under section 208 of the Implementation Act to exclude certain textile and apparel goods from the customs territory of the United States; to determine whether an enterprise's production of, and capability to produce, goods are consistent with statements by the enterprise; to find that an enterprise has knowingly

or willfully engaged in circumvention; and to deny preferential tariff treatment to textile and apparel goods.

(8) The CITA is authorized to exercise the functions of the President under subtitle B of title III of the Implementation Act to review requests, and to determine whether to commence consideration of such requests; to cause to be published in the Federal Register a notice of commencement of consideration of a request and notice seeking public comment; to determine whether imports of a Peruvian textile or apparel article are causing serious damage, or actual threat thereof, to a domestic industry producing an article that is like, or directly competitive with, the imported article; and to provide relief from imports of an article that is the subject of such a determination.

(9) The CITA, after consultation with the Commissioner of Customs (the "Commissioner"), is authorized to consult with representatives of Peru for the purpose of identifying particular textile or apparel goods of Peru that are mutually agreed to be handloomed fabrics, handmade goods made of such handloomed fabrics, folklore goods, or handmade goods that substantially incorporate a historical or traditional regional design or motif, as provided in Article 3.3.12 of the Agreement. The Commissioner shall take actions as directed by the CITA to carry out any such determination.

(10) The USTR is authorized to fulfill my obligations under section 104 of the Implementation Act to obtain advice from the appropriate advisory committees and the United States International Trade Commission on the proposed implementation of an action by presidential proclamation; to submit a report on such proposed action to the appropriate congressional committees; and to consult with those congressional committees regarding the proposed action.

(11) The USTR is authorized to modify U.S. note 29 to subchapter XXII of chapter 98 of the HTS in a notice published in the Federal Register to reflect modifications pursuant to paragraph (6) of this proclamation by the CITA to the list of fabrics, yarns, or fibers in Annex 3-B of the Agreement.

(12) In order to make technical corrections necessary to provide the intended duty treatment under Articles 2.5 and 2.6 of the USMFTA, Articles 2.5 and 2.6 of the USBFTA, and the CAFTA-DR, the HTS is modified as set forth in Annex III of Publication 4058.

(13) All 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 sixteenth day of January, in the year of our Lord two thousand nine, and of the Independence of the United States of America the two hundred and thirty-third.

A handwritten signature in black ink, appearing to be "Barack Obama", written in a cursive style.

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