

Presidential Documents

Proclamation 9694 of January 23, 2018

To Facilitate Positive Adjustment to Competition From Imports of Large Residential Washers

By the President of the United States of America

A Proclamation

1. On December 4, 2017, the United States International Trade Commission (ITC) transmitted to the President a report (the “ITC Report”) on its investigation under section 202 of the Trade Act of 1974, as amended (the “Trade Act”) (19 U.S.C. 2252), with respect to imports of large residential washers (“washers”). The product subject to the ITC’s investigation and determination excluded certain washers described in the ITC Notice of Institution, 82 *FR* 27075 (June 13, 2017), and listed in subdivision (c)(2) of Note 17 in the Annex to this proclamation.

2. The ITC reached an affirmative determination under section 202(b) of the Trade Act (19 U.S.C. 2252(b)) that the following products are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or threat of serious injury, to the domestic industries producing like or directly competitive articles:

(a) washers; and

(b) certain washer parts, including (i) all cabinets, or portions thereof, designed for use in washers; (ii) all assembled tubs designed for use in washers which incorporate, at a minimum, a tub and a seal; (iii) all assembled baskets designed for use in washers which incorporate, at a minimum, a side wrapper, a base, and a drive hub; and (iv) any combination of the foregoing parts or subassemblies.

3. Pursuant to section 311(a) of the North American Free Trade Agreement Implementation Act (the “NAFTA Implementation Act”) (19 U.S.C. 3371(a)), the ITC made findings as to whether imports from Canada and Mexico, considered individually, account for a substantial share of total imports and contribute importantly to the serious injury, or threat thereof, caused by imports. The ITC made negative findings of contribution to injury with respect to imports of washers from Canada and Mexico.

4. The ITC transmitted to the President its recommendations made pursuant to section 202(e) of the Trade Act (19 U.S.C. 2252(e)) with respect to the actions that, in its view, would address the serious injury, or threat of serious injury, to the domestic industry and be most effective in facilitating the efforts of the industry to make a positive adjustment to import competition.

5. Pursuant to section 203 of the Trade Act (19 U.S.C. 2253), and after taking into account the considerations specified in section 203(a)(2) of the Trade Act (19 U.S.C. 2253(a)(2)) and the ITC Report, I have determined to implement action of a type described in section 203(a)(3) of the Trade Act (19 U.S.C. 2252(a)(3)) (a “safeguard measure”), with regard to the following washers and covered washer parts:

(a) washers provided for in subheadings 8450.11.00 and 8450.20.00 in the Annex to this proclamation;

(b) all cabinets, or portions thereof, designed for use in washers, and all assembled baskets designed for use in washers that incorporate, at a

minimum, a side wrapper, a base, and a drive hub, provided for in subheading 8450.90.60 in the Annex to this proclamation;

(c) all assembled tubs designed for use in washers that incorporate, at a minimum, a tub and a seal, provided for in subheading 8450.90.20 in the Annex to this proclamation;

(d) any combination of the foregoing parts or subassemblies, provided for in subheadings 8450.90.20 or 8450.90.60 in the Annex to this proclamation.

6. Pursuant to section 312(a) of the NAFTA Implementation Act (19 U.S.C. 3372(a)), I have determined after considering the ITC Report that (a) imports from Canada of washers and covered washer parts, considered individually, do not account for a substantial share of total imports and do not contribute importantly to the serious injury or threat of serious injury found by the ITC; and (b) imports from Mexico of washers and covered washer parts, considered individually, account for a substantial share of total imports and have contributed importantly to the serious injury or threat of serious injury found by the ITC. Accordingly, pursuant to section 312(b) of the NAFTA Implementation Act (19 U.S.C. 3372(b)), I have excluded washers and covered washer parts that are the product of Canada from the actions I am taking under section 203 of the Trade Act.

7. Pursuant to section 203 of the Trade Act, the action I have determined to take shall be a safeguard measure in the form of:

(a) a tariff-rate quota on imports of washers described in subparagraph (a) of paragraph 5 of this proclamation, imposed for a period of 3 years plus 1 day, with unchanging within-quota quantities, annual reductions in the rates of duties entered within those quantities in the second and third years, and annual reductions in the rates of duty applicable to goods entered in excess of those quantities in the second and third years; and

(b) a tariff-rate quota on imports of covered washer parts described in subparagraphs (b), (c), and (d) of paragraph 5 of this proclamation, imposed for a period of 3 years plus 1 day, with increasing within-quota quantities and annual reductions in the rates of duty applicable to goods entered in excess of those quantities in the second and third years.

8. This safeguard measure shall apply to imports from all countries, except for products of Canada and except as provided in paragraph 9 of this proclamation.

9. This safeguard measure shall not apply to imports of any product described in paragraph 5 of this proclamation of a developing country that is a Member of the World Trade Organization (WTO), as listed in subdivision (b)(2) of Note 17 in the Annex to this proclamation, as long as such a country's share of total imports of the product, based on imports during a recent representative period, does not exceed 3 percent, provided that imports that are the product of all such countries with less than 3 percent import share collectively account for not more than 9 percent of total imports of the product. If I determine that a surge in imports of a product described in paragraph 5 of this proclamation of a developing country that is a WTO Member results in imports of that product from that developing country exceeding either of the thresholds described in this paragraph, the safeguard measure shall be modified to apply to such product from such country.

10. The in-quota quantity in each year under the tariff-rate quotas described in paragraph 7 of this proclamation shall be allocated among all countries except those countries the products of which are excluded from such tariff-rate quota pursuant to paragraphs 8 and 9 of this proclamation.

11. Pursuant to section 203(a)(1)(A) of the Trade Act (19 U.S.C. 2253(a)(1)(A)), I have determined that this safeguard measure will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs. If I determine that further action is appropriate and feasible to facilitate efforts by the domestic industry to make a positive adjustment to import competition

and to provide greater economic and social benefits than costs, or if I determine that the conditions under section 204(b)(1) of the Trade Act (19 U.S.C. 2254(b)(1)) are met, I shall reduce, modify, or terminate the action established in this proclamation accordingly. In addition, if I determine within 30 days of the date of this proclamation, as a result of consultations between the United States and other WTO Members pursuant to Article 12.3 of the WTO Agreement on Safeguards, that it is necessary to reduce, modify, or terminate the safeguard measure, I shall proclaim the corresponding reduction, modification, or termination of the safeguard measure within 40 days.

12. If I determine that a surge in imports of covered washer parts described in subparagraphs (b), (c), and (d) of paragraph 5 of this proclamation undermines the effectiveness of the safeguard measure, the safeguard measure shall be modified by imposing a quantitative restriction in lieu of the tariff-rate quota.

13. Section 604 of the Trade Act (19 U.S.C. 2483), authorizes the President to embody in the Harmonized Tariff Schedule of the United States (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, DONALD J. TRUMP, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States, including but not limited to sections 203 and 604 of the Trade Act, section 312 of the NAFTA Implementation Act (19 U.S.C. 3372), and section 301 of title 3, United States Code, do proclaim that:

- (1) In order to establish increases in duty and a tariff-rate quota on imports of the washers and covered washer parts described in paragraph 5 of this proclamation (other than excluded products), subchapter III of chapter 99 of the HTS is modified as provided in the Annex to this proclamation. Any merchandise subject to the safeguard measure that is admitted into U.S. foreign trade zones on or after 12:01 a.m. eastern standard time, on February 7, 2018, must be admitted as “privileged foreign status” as defined in 19 CFR 146.41, and will be subject upon entry for consumption to any quantitative restrictions or tariffs related to the classification under the applicable HTS subheading.
- (2) Imports of washers and covered washer parts that are the product of Canada shall be excluded from the safeguard measure established in this proclamation, and such imports shall not be counted toward the tariff-rate quota limits that trigger the over-quota rates of duty.
- (3) Except as provided in clause (4) below, imports of washers and covered washer parts that are the product of WTO Member developing countries, as listed in subdivision (b)(2) of Note 17 in the Annex to this proclamation, shall be excluded from the safeguard measure established in this proclamation, and such imports shall not be counted toward the tariff-rate quota limits that trigger the over-quota rates of duties.
- (4) If, after the safeguard measure established in this proclamation takes effect, the United States Trade Representative (USTR) determines that:
 - (a) the share of total imports of the product of a country listed in subdivision (b)(2) of Note 17 in the Annex to this proclamation exceeds 3 percent,
 - (b) imports of the product from all listed countries with less than 3 percent import share collectively account for more than 9 percent of total imports of the product, or
 - (c) a country listed in subdivision (b)(2) of Note 17 in the Annex to this proclamation is no longer a developing country for purposes of this proclamation;

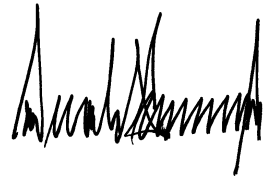
the USTR is authorized, upon publication of a notice in the *Federal Register*, to revise subdivision (b)(2) of Note 17 in the Annex to this proclamation to remove the relevant country from the list or suspend operation of that subdivision, as appropriate.

(5) If, after the safeguard measure established in this proclamation takes effect, the USTR determines that the out-of-quota quantity in units of covered washer parts entered under the tariff lines in chapter 99 enumerated in the Annex to this proclamation has increased by an unjustifiable amount and undermines the effectiveness of the safeguard measure, the USTR is authorized, upon publishing a notice of such determination in the *Federal Register*, to modify the HTS provisions created by the Annex to this proclamation so as to modify the tariff-rate quota on covered washer parts with a quantitative restriction on covered washer parts at a level that the USTR considers appropriate.

(6) Any provision of previous proclamations and Executive Orders that is inconsistent with the actions taken in this proclamation is superseded to the extent of such inconsistency.

(7) The modifications to the HTS made in this proclamation, including the Annex hereto, shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 7, 2018, and shall continue in effect as provided in the Annex to this proclamation, unless such actions are earlier expressly reduced, modified, or terminated. One year from the termination of the safeguard measure established in this proclamation, the U.S. note and tariff provisions established in the Annex to this proclamation shall be deleted from the HTS.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of January, in the year of our Lord two thousand eighteen, and of the Independence of the United States of America the two hundred and forty-second.



ANNEX

**MODIFICATIONS TO CHAPTER 99 OF
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after 12:01 a.m. eastern standard time on February 7, 2018, and through 11:59 p.m. eastern standard time on February 7, 2021, subchapter III of chapter 99 of the Harmonized Tariff Schedule of the United States (HTS) is hereby modified by inserting in numerical sequence the following new U.S. note and provisions:

- “17. (a) Subheadings 9903.45.01 through 9903.45.06 and any superior texts thereto establish temporary modifications applicable to entries of goods described herein and classified in the enumerated provisions of chapter 84 of the tariff schedule. Whenever any such subheading specifies that the annual aggregate quantity of such goods shall not exceed the quantity established under the terms of this note, when such goods are not the product of a country enumerated in subdivision (b) of this note, any entry of such goods that is in excess of the quantity specified for such provision shall be entered under the over-quota subheading set forth herein for such goods. All such goods shall be subject to duty as provided herein, and such duties shall be cumulative and imposed in addition to the rate of duty established for any such goods in chapter 84 of the tariff schedule.
- (b) For the purposes of this note and the application of subheadings 9903.45.01 through 9903.45.06, inclusive, the following countries shall not be subject to the rates of duty and tariff-rate quotas provided for herein:
- (1) Canada; and
 - (2) the following developing countries that are members of the World Trade Organization:

Afghanistan, Albania, Algeria, Angola, Armenia, Azerbaijan, Belize, Benin, Bhutan, Bolivia, Bosnia and Herzegovina, Botswana, Brazil, Burkina Faso, Burma, Burundi, Cambodia, Cameroon, Cape Verde, Central African Republic, Chad, Comoros, Congo (Brazzaville), Congo (Kinshasa), Côte d’Ivoire, Djibouti, Dominica, Ecuador, Egypt, Eritrea, Ethiopia, Fiji, Gabon, The Gambia, Georgia, Ghana, Grenada, Guinea, Guinea-Bissau, Guyana, Haiti, India, Indonesia, Iraq, Jamaica, Jordan, Kazakhstan, Kenya, Kiribati, Kosovo, Kyrgyzstan, Lebanon, Lesotho, Liberia, Macedonia, Madagascar, Malawi, Maldives, Mali, Mauritania, Mauritius, Moldova, Mongolia, Montenegro, Mozambique, Namibia, Nepal, Niger, Nigeria, Pakistan, Papua New Guinea, Paraguay, Philippines, Rwanda, Saint Lucia, Saint Vincent and the Grenadines, Samoa, Sao Tomé and Príncipe, Senegal, Serbia, Sierra Leone, Solomon Island, Somalia, South Africa, South Sudan, Sri Lanka, Suriname, Swaziland, Tanzania, Timor-Leste, Togo, Tonga, Tunisia, Turkey, Tuvalu, Uganda, Ukraine, Uzbekistan, Vanuatu, Yemen (Republic of), Zambia and Zimbabwe.

Annex, page 2

- (c) (1) For the purposes of subheadings 9903.45.01 and 9903.45.02 of this subchapter, “household-type (residential) washing machines, including machines which both wash and dry, whether or not with a dry linen capacity exceeding 10 kg” (such goods provided for in subheadings 8450.11.00 and 8450.20.00 and reported under statistical reporting numbers 8450.11.0040, 8450.11.0080, 8450.20.0040 and 8450.20.0080, respectively, on the effective date of this note) shall include the following goods: automatic clothes washing machines, regardless of the orientation of the rotational axis, each with a cabinet width (measured from its widest point) of at least 62.23 cm and no more than 81.28 cm, except as provided in this note.
- (2) Subheadings 9903.45.01 and 9903.45.02 shall not apply to the washing machines specified below:
- (A) all stacked washer-dryers and all commercial washers:
- (i) The term “stacked washer-dryers” denotes distinct washing and drying machines that are built on a unitary frame and share a common console that controls both the washer and the dryer.
- (ii) The term “commercial washer” denotes an automatic clothes washing machine designed for the “pay per use” segment meeting either of the following two definitions:
- (aa) (I) it contains payment system electronics;
- (II) it is configured with an externally mounted steel frame at least 15.24 cm high that is designed to house a coin/token operated payment system (whether or not the actual coin/token operated payment system is installed at the time of importation);
- (III) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level or spin speed for a selected wash cycle setting; and
- (IV) the console containing the user interface is made of steel and is assembled with security fasteners; or
- (bb) (I) it contains payment system electronics;
- (II) the payment system electronics are enabled (whether or not the payment acceptance device has been installed at the time of importation) such that, in normal operation, the unit cannot begin a wash cycle without first receiving a signal

Annex, page 3

from a bona fide payment acceptance device such as an electronic credit card reader;

(III) it contains a push button user interface with a maximum of six manually selectable wash cycle settings, with no ability of the end user to otherwise modify water temperature, water level or spin speed for a selected wash cycle setting; and

(IV) the console containing the user interface is made of steel and is assembled with security fasteners.

(B) automatic clothes washing machines that meet all of the following conditions:

(i) they have a vertical rotational axis,

(ii) they are top loading; and

(iii) they have a drive train consisting, *inter alia*, of (aa) a permanent split capacitor motor, (bb) a belt drive and (cc) a flat wrap spring clutch.

(C) automatic clothes washing machines that meet all of the following conditions:

(i) they have a horizontal rotational axis;

(ii) they are front loading; and

(iii) they have a drive train consisting, *inter alia*, of (aa) a controlled induction motor and (bb) a belt drive.

(D) automatic clothes washing machines that meet all of the following conditions:

(i) they have a horizontal rotational axis;

(ii) they are front loading; and

(iii) they have cabinet width (measured from its widest point) of more than 72.39 cm.

(d) For purposes of subheading 9903.45.01 of this subchapter, the duty rate in the Rates of Duty 1-General subcolumn (and in the Rates of Duty 2 column, as provided therein) for goods entered under such subheading, and not the product of a country enumerated in subdivision (b) of this note, shall be as follows, with the duty rates set

Annex, page 4

forth herein applied in addition to those applicable under subheading 8450.11.00 or 8450.20.00:

If entered during the period from
February 7, 2018 through February 6, 2019 20%

If entered during the period from
February 7, 2019 through February 6, 2020 18%

If entered during the period from
February 7, 2020 through February 7, 2021 16%.

- (e) For purposes of subheading 9903.45.02 of this subchapter, the duty rate in the Rates of Duty 1-General subcolumn (and in the Rates of Duty 2 column, as provided therein) for goods entered under such subheading, and not the product of a country enumerated in subdivision (b) of this note, shall be as follows, with the duty rates set forth herein applied in addition to those applicable under subheading 8450.11.00 or 8450.20.00:

If entered during the period from
February 7, 2018 through February 6, 2019 50%

If entered during the period from
February 7, 2019 through February 6, 2020 45%

If entered during the period from
February 7, 2020 through February 7, 2021 40%.

- (f) For purposes of subheadings 9903.45.05 and 9903.45.06 of this subchapter, the term “parts of household-type (residential) washing machines” shall include the following goods provided for in subheading 8450.90.20 or 8450.90.60 of the tariff schedule:

(1) all cabinets, or portions thereof, provided for in subheading 8450.90.60 and designed for use in the washing machines defined in subdivision (c) of this note, the foregoing which incorporate, at a minimum, (A) a side wrapper, (B) a base and (C) a drive hub;

(2) all assembled tubs provided for in subheading 8450.90.20 and designed for use in such washing machines defined in such subdivision (c) which incorporate, at a minimum: (A) a tub and (B) a seal; and

(3) any combination of the foregoing parts or subassemblies, provided for in subheading 8450.90.20 or 8450.90.60.

- (g) For the purposes of subheading 9903.45.05 of this subchapter, the annual aggregate quantity of all parts of household-type (residential) washing machines, as defined in subdivision (f) above, that is eligible to enter under such subheading in any of the periods enumerated below shall be as follows:

Annex, page 5

If entered during the period from
February 7, 2018 through February 6, 201950,000 units

If entered during the period from
February 7, 2019 through February 6, 202070,000 units

If entered during the period from
February 7, 2020 through February 7, 202190,000 units.

- (h) For purposes of subheading 9903.45.06 of this subchapter, the duty rate in the Rates of Duty 1-General subcolumn (and in the Rates of Duty 2 column, as provided therein) for goods entered in any of the periods enumerated below shall be as follows, with the duty rates set forth herein applied in addition to those applicable under subheading 8450.90.20 or 8450.90.60, as appropriate:

If entered during the period from
February 7, 2018 through February 6, 2019 50%

If entered during the period from
February 7, 2019 through February 6, 2020 45%

If entered during the period from
February 7, 2020 through February 7, 2021 40%.

Annex, page 6

Heading/ Subheading	Article description	Rates of Duty		
		1		2
		General	Special	
9903.45.01	Household-type (residential) washing machines, including machines which both wash and dry, whether or not with a dry linen capacity exceeding 10 kg (as defined in note 17(c) to this subchapter and provided for in subheading 8450.11.00 or 8450.20.00), when entered from a country other than a country enumerated in note 17(b) to this subchapter: If entered in an annual aggregate quantity not exceeding 1,200,000 units, under the terms of such note.....	The duty rate provided in note 17(d) to this subchapter		The duty rate provided in note 17(d) to this subchapter + 35%
9903.45.02	Other.....	The duty rate provided in note 17(e) to this subchapter		The duty rate provided in note 17(e) to this subchapter + 35%
9903.45.05	Parts of household-type (residential) washing machines (such machines described in subheading 9903.45.01 and 9903.45.02 and defined in note 17(c) to this subchapter), such parts provided for in subheading 8450.90.20 or 8450.90.60 and enumerated in note 17(f) to this subchapter, when entered from a country other than a country specified in note 17(b) to this subchapter: If entered in an annual aggregate quantity not exceeding the quantity specified in note 17(g) to this subchapter, under the terms of such note.....	No change		No change
9903.45.06	Other.....	The duty rate set forth in note 17(h) to this subchapter		The duty rate set forth in note 17(h) to this subchapter + 40%".