

Presidential Documents

Title 3—

Proclamation 8818 of May 14, 2012

The President

To Implement the United States-Colombia Trade Promotion Agreement and for Other Purposes

By the President of the United States of America

A Proclamation

1. On November 22, 2006, the United States entered into the United States-Colombia Trade Promotion Agreement (the “Agreement”) and on June 28, 2007, the United States and Colombia amended the Agreement. The Congress approved the Agreement, as amended, in section 101(a) of the United States-Colombia Trade Promotion Agreement Implementation Act (the “Implementation Act”) (Public Law 112–42, 125 Stat. 462).

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, and 3.3.13 and Annex 2.3 of the Agreement.

4. Consistent with section 201(a)(2) of the Implementation Act, Colombia is to be removed from the enumeration of designated beneficiary developing countries eligible for the benefits of the Generalized System of Preferences (GSP).

5. Section 3103 of the Andean Trade Promotion and Drug Eradication Act (title XXXI of the Trade Act of 2002, Public Law 107–210) (ATPDEA) amended section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) (ATPA) to provide that certain preferential tariff treatment may be provided to eligible articles that are the product of any country that the President designates as an “ATPDEA beneficiary country” pursuant to section 204(b)(6)(B) of the ATPA, as amended. In Proclamation 7616 of October 31, 2002, Colombia and Peru were designated as beneficiary countries under the ATPDEA.

6. Consistent with section 201(a)(3) of the Implementation Act, Colombia is removed from the enumeration of beneficiary countries under the ATPA (19 U.S.C. 3202(a)(1)). Consequently, Colombia is also removed from the enumeration of beneficiary countries under the ATPDEA.

7. 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 Colombia is no longer eligible to receive the benefits of the GSP, the ATPA, and the ATPDEA.

8. 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 General Notes 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.

9. 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 determined that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the HTS.

10. Section 203(o) of the Implementation Act authorizes the President, after receiving a request from an interested entity, to determine that a fabric, yarn, or fiber is or is not available in commercial quantities in a timely manner in Colombia or the United States; to establish procedures governing the submission of a request for any such determination and ensuring appropriate public participation in any such determination; to add to the list of the United States as set forth in Annex 3-B of the Agreement any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in Colombia and the United States; or to remove from the list in Annex 3-B of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

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

12. 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.

13. 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.

14. Section 501(a) of the Implementation Act amended section 208(a) of the ATPA (19 U.S.C. 3206(a)) to extend the duration of duty-free treatment under the ATPA until July 31, 2013. I have determined that a modification to the HTS is necessary to reflect this amendment.

15. Section 201 of the Omnibus Trade Act of 2010 (the “Trade Act of 2010”) (Public Law 111–344, 124 Stat. 3611), amended section 208(a)(1) of the ATPA (19 U.S.C. 3206(a)(1)) to provide that no duty-free treatment or other preferential treatment extended to beneficiary countries under the ATPA shall remain with respect to Peru after December 31, 2010. I have determined that a modification to the HTS is necessary to reflect this amendment. Consequently, Peru is removed from the enumeration of beneficiary countries under the ATPA and the ATPDEA.

16. Section 1952(a) of the Small Business Job Protection Act of 1996 (Public Law 104–188, 110 Stat. 1755) amended title V of the 1974 Act, to provide, in part, that the President may not designate as an eligible article under the GSP “[t]extile and apparel articles which were not eligible articles for purposes of this title on January 1, 1994, as this title was in effect on such date.” I have determined that a modification of general notes 4 and 10 to the HTS is necessary to reflect this amendment.

17. Presidential Proclamation 8332 of December 29, 2008, implemented U.S. tariff commitments under the United States-Oman Free Trade Agreement and incorporated by reference Publication 4050 of the United States International Trade Commission (the “Commission”), entitled “Modifications to the Harmonized Tariff Schedule of the United States Implementing the United States-Oman Free Trade Agreement.” Annex II to that publication included certain errors in the quantities specified under certain tariff-rate quotas

and references to relevant tariff lines. I have determined that a modification to the HTS is necessary to correct those errors.

18. Presidential Proclamation 8405 of August 31, 2009, modified certain rules of origin under the North American Free Trade Agreement and incorporated by reference Publication 4095 of the Commission, entitled “Modifications to the Harmonized Tariff Schedule of the United States to Adjust Rules of Origin Under the North American Free Trade Agreement.” Certain rules of origin were incorrectly deleted from the HTS. I have determined that a modification to general note 12 to the HTS is necessary to restore those rules of origin.

19. Presidential Proclamation 8771 of December 29, 2011, modified the HTS to conform to amendments made to the International Convention on the Harmonized Commodity Description and Coding System and incorporated by reference Publication 4276 of the Commission, entitled “Modifications to the Harmonized Tariff Schedule of the United States Under Section 1206 of the Omnibus Trade and Competitiveness Act of 1988.” Annex II to that publication included incorrect rates of duty for certain articles for the years 2016 through 2018. I have determined that a modification of general note 31 to the HTS is necessary to reflect the correct rate of duty for these articles.

20. Presidential Proclamation 8783 of March 6, 2012, implemented U.S. tariff commitments under the United States-Korea Free Trade Agreement and incorporated by reference Publication 4308 of the Commission, entitled “Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Korea Free Trade Agreement.” Annex II to that publication included an error in the staged duty applied to two tariff subheadings. I have determined that a modification to the HTS is necessary to correct that error.

21. Section 604 of the 1974 Act authorizes the President to embody in the HTS the substance of relevant provisions of chapter V of that Act, and of 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, 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 604 of the 1974 Act, section 1952(a) of the Small Business Job Protection Act of 1996, section 201 of the Trade Act of 2010, sections 105(a), 201, 203, 208, 501, 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 Colombia for the purposes of the Agreement, and to reflect Colombia’s removal from the list of beneficiary developing countries under the GSP, and from the list of beneficiary countries under ATPA and ATPDEA, the HTS is modified as set forth in Annex I of Publication 4320 of the Commission, entitled “Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Colombia Trade Promotion Agreement,” which is incorporated by reference into this proclamation.

(2) The modifications to the HTS made in paragraph (1) 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 I of Publication 4320.

(3) 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 Colombia for purposes of the Agreement, the HTS is modified as provided in Annex II of Publication 4320, effective on the dates specified in the relevant sections of such Annex and on any subsequent dates set forth for such duty reductions in that Annex.

(4) In order to implement section 501(a) of the Implementation Act, the HTS is modified as set forth in section A of Annex III of Publication 4320.

(5) The modifications to the HTS set forth in section A of Annex III of Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after November 5, 2011.

(6) The Secretary of Commerce is authorized to exercise the authority of the President 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.

(7) The CITA is authorized to exercise the authority of the President 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 Colombia and the United States; 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 Colombia and the United States to the list in Annex 3–B of the Agreement; or to remove from the list in Annex 3–B of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

(8) The CITA is authorized to exercise the authority of the President under section 208 of the Implementation Act to direct the exclusion of certain textile and apparel goods from the customs territory of the United States and to direct the denial of preferential tariff treatment to textile and apparel goods.

(9) 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; after an appropriate determination, 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 Colombian 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 an affirmative determination as to damage or threat.

(10) The United States Trade Representative (USTR) is authorized to fulfill the obligations of the President under section 104 of the Implementation Act to obtain advice from the appropriate advisory committees and the 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 33 to subchapter XXII of chapter 98 of the HTS in a notice published in the *Federal Register* to reflect modifications pursuant to paragraph (7) 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 reflect Peru's removal from the list of beneficiary countries under the ATPA and the ATPDEA, the HTS is modified as set forth in section B of Annex III to Publication 4320.

(13) The modifications to the HTS set forth in section B of Annex III to Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2011.

(14) In order to reflect the amendments to title V of the 1974 Act, general notes 4 and 10 to the HTS are modified as set forth in section A of Annex IV to Publication 4320.

(15) The modifications to the HTS set forth in section A of Annex IV to Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 1996.

(16) In order to provide the intended tariff treatment to certain goods of Oman under the terms of general note 31 to the HTS, subchapter XVI of chapter 99 and general note 31 to the HTS are modified as set forth in section B of Annex IV to Publication 4320.

(17) The modifications to the HTS set forth in section B of Annex IV to Publication 4320 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2009.

(18) In order to provide the intended tariff treatment to certain goods of Canada or of Mexico under the terms of general note 12 to the HTS, general note 12 is modified as set forth in section C of Annex IV to Publication 4320.

(19) The modifications to the HTS set forth in section C of Annex IV to Publication 4320 are effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after February 3, 2007.

(20) In order to provide the intended tariff treatment to goods of Korea under the terms of general note 33, the HTS is modified as set forth in section D of Annex IV to Publication 4320.

(21) The modifications to the HTS set forth in section D of Annex IV to Publication 4320 are effective with respect to goods entered, or withdrawn from warehouse for consumption, as set forth in section D of Annex IV to Publication 4320.

(22) 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 fourteenth day of May, 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.

