

# Presidential Documents

Title 3—

Proclamation 8394 of June 29, 2009

The President

## To Modify Duty-Free Treatment Under the Generalized System of Preferences, and for Other Purposes

By the President of the United States of America

### A Proclamation

1. Pursuant to sections 501 and 503(a)(1)(A) of the Trade Act of 1974, as amended (the “1974 Act”) (19 U.S.C. 2461 and 2463(a)(1)(A)), the President may designate articles as eligible for preferential tariff treatment under the Generalized System of Preferences (GSP).

2. Pursuant to section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)), beneficiary developing countries, except those designated as least-developed beneficiary developing countries or beneficiary sub-Saharan African countries as provided in section 503(c)(2)(D) of the 1974 Act (19 U.S.C. 2463(c)(2)(D)), are subject to competitive need limitations on the preferential treatment afforded under the GSP to eligible articles.

3. Section 503(c)(2)(F)(i) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(i)) provides that the President may disregard the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)(i)(II)) with respect to any eligible article from any beneficiary developing country if the aggregate appraised value of the imports of such article into the United States during the preceding calendar year does not exceed an amount set forth in section 503(c)(2)(F)(ii) of the 1974 Act (19 U.S.C. 2463(c)(2)(F)(ii)).

4. Pursuant to section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)), the President may waive the application of the competitive need limitations in section 503(c)(2)(A) of the 1974 Act with respect to any eligible article from any beneficiary developing country if certain conditions are met.

5. Pursuant to section 503(d)(5) of the 1974 Act (19 U.S.C. 2463(d)(5)), any waiver granted under section 503(d) shall remain in effect until the President determines that such waiver is no longer warranted due to changed circumstances.

6. Pursuant to section 503(c)(2)(E) of the 1974 Act (19 U.S.C. 2463(c)(2)(E)), section 503(c)(2)(A)(i)(II) shall not apply with respect to any eligible article if a like or directly competitive article was not produced in the United States on January 1, 1995.

7. Pursuant to sections 501 and 503(a)(1)(A) of the 1974 Act, and after receiving advice from the United States International Trade Commission (the “Commission”) in accordance with section 503(e), I have determined to designate certain articles as eligible articles when imported from any beneficiary developing country.

8. Pursuant to section 503(c)(2)(A) of the 1974 Act, I have determined that in 2008 certain beneficiary developing countries exported eligible articles in quantities exceeding the applicable competitive need limitations, and I therefore terminate the duty-free treatment for such articles from such beneficiary developing countries.

9. Pursuant to section 503(c)(2)(F) of the 1974 Act, I have determined that the competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act should be disregarded with respect to certain eligible articles from certain beneficiary developing countries.

10. Pursuant to section 503(d)(1) of the 1974 Act, I have received the advice of the Commission on whether any industry in the United States is likely to be adversely affected by a waiver of the competitive need limitations provided in section 503(c)(2)(A), and I have determined, based on that advice and on the considerations described in sections 501 and 502(c) (19 U.S.C. 2462(c)) of the 1974 Act, and after giving great weight to the considerations in section 503(d)(2) of the 1974 Act (19 U.S.C. 2463(d)(2)), that such waivers are in the national economic interest of the United States. Accordingly, I have determined that the competitive need limitations of section 503(c)(2)(A) of the 1974 Act should be waived with respect to certain eligible articles from certain beneficiary developing countries.

11. Pursuant to section 503(d)(5) of the 1974 Act, I have determined that certain previously granted waivers of the competitive need limitations of section 503(c)(2)(A) of the 1974 Act are no longer warranted due to changed circumstances.

12. Pursuant to section 503(c)(2)(E) of the 1974 Act, I have determined that the limitation provided for in section 503(c)(2)(A)(i)(II) shall not apply with respect to subheading 7202.50.00 of the Harmonized Tariff Schedule of the United States (HTS) because no like or directly competitive article was produced in the United States on January 1, 1995.

13. Section 2004(d)(8)(A) of the Miscellaneous Trade and Technical Corrections Act of 2004 (Public Law 108–429, 118 Stat. 2434) amended subheading 9804.00.70 of the HTS to provide the tariff treatment for certain articles imported by or on the account of returning United States residents. I have determined that it is appropriate to make conforming changes to note 4 to subchapter IV of chapter 98 of the HTS to reflect that amendment.

14. On June 6, 2003, the United States and Chile entered into the United States-Chile Free Trade Agreement (USCFTA), which the Congress approved in section 101(a) of the United States-Chile Free Trade Agreement Implementation Act (the “USCFTA Act”) (19 U.S.C. 3805 note). Proclamation 8334 of December 31, 2008, exercised authority under the USCFTA Act by modifying the HTS to provide for an accelerated schedule of duty elimination for specific originating goods of Chile. Proclamation 8334 inadvertently omitted modifications to the HTS necessary to implement the accelerated schedule. I have determined that technical corrections to the HTS are necessary to provide for the intended tariff treatment.

15. Presidential Proclamation 8332 of December 29, 2008, implemented the tariff treatment called for under certain provisions of the United States-Oman Free Trade Agreement (USOFTA). I have determined that a technical correction to the HTS is necessary to provide for the intended tariff treatment.

16. 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, acting under 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, do proclaim that:

(1) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to one or more eligible articles for purposes of the GSP, general note 4(d) to the HTS is modified as set forth in section A of Annex I to this proclamation.

(2) In order to provide that one or more countries should no longer be treated as beneficiary developing countries with respect to certain eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for the corresponding HTS subheadings is modified as set forth in section B of Annex I to this proclamation.

(3) In order to designate certain articles as eligible articles for purposes of the GSP, the Rates of Duty 1-Special subcolumn for the corresponding HTS subheadings is modified as set forth in section C of Annex I to this proclamation.

(4) The competitive need limitation provided in section 503(c)(2)(A)(i)(II) of the 1974 Act is disregarded with respect to the eligible articles in the HTS subheadings and to the beneficiary developing countries listed in Annex II to this proclamation.

(5) A waiver of the application of section 503(c)(2)(A) of the 1974 Act shall apply to the eligible articles in the HTS subheadings and to the beneficiary developing countries set forth in Annex III to this proclamation.

(6) The waiver of the application of section 503(c)(2)(A) of the 1974 Act to the articles in the HTS subheading and to the beneficiary developing country listed in Annex IV to this proclamation is revoked.

(7) In order to make technical corrections necessary to provide the intended tariff treatment under the Miscellaneous Trade and Technical Corrections Act of 2004, the USCFTA, and the USOFTA, the HTS is modified as set forth in Annex V to this proclamation.

(8) The modifications to the HTS set forth in Annexes I, IV, and V to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the dates set forth in the respective annex.

(9) 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-ninth day of June, 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", with a large circular flourish at the end.

**ANNEX I****MODIFICATIONS TO THE HARMONIZED TARIFF  
SCHEDULE OF THE UNITED STATES**

Section A. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2009, general note 4(d) to the Harmonized Tariff Schedule of the United States (HTS) is modified by:

(1) adding, in numerical sequence, the following subheading numbers and the countries set out opposite such subheading numbers:

1604.15.00	Thailand	3920.59.10	India
2804.29.00	Ukraine	7113.11.50	India
2819.10.00	Turkey	7907.00.20	India
2918.99.30	India	8607.19.03	Ukraine
2933.59.59	India	8708.50.79	India

(2) adding, in alphabetical order, the following countries opposite the following subheading numbers:

3824.90.40	Argentina
3907.60.00	Indonesia

Section B. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2009, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A" and inserting the symbol "A\*" in lieu thereof:

1604.15.00	3920.59.10
2804.29.00	7113.11.50
2819.10.00	7907.00.20
2918.99.30	8607.19.03
2933.59.59	8708.50.79

Section C. Effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after July 1, 2009, the HTS is modified as provided in this section. For each of the following subheadings, the Rates of Duty 1-Special subcolumn is modified by deleting the symbol "A+" and inserting the symbol "A" in lieu thereof:

0710.10.00
0710.30.00

**ANNEX II****HTS Subheadings and Countries for Which the Competitive Need  
Limitation Provided in Section 503(c)(2)(A)(i)(II) Is Disregarded**

0210.99.90	Thailand	2908.99.20	India
0406.20.51	Argentina	2909.11.00	India
0410.00.00	Indonesia	2909.30.10	India
0603.13.00	Thailand	2909.50.40	Indonesia
0710.29.15	Turkey	2912.49.10	India
0710.80.50	Turkey	2913.00.50	India
0711.40.00	India	2914.40.10	Brazil
0712.90.70	Turkey	2914.40.20	India
0802.31.00	India	2915.39.20	India
0807.19.60	Brazil	2917.14.10	Brazil
0810.60.00	Thailand	2918.21.50	Brazil
0813.40.10	Thailand	2921.42.15	India
0813.40.80	Thailand	2921.42.21	India
1103.19.14	Pakistan	2921.42.55	India
1301.90.40	India	2922.29.26	India
1601.00.40	Brazil	2924.21.04	India
1605.20.05	Thailand	2924.29.52	India
1703.10.30	Brazil	2926.10.00	Brazil
1806.10.34	Uruguay	2926.90.08	India
1806.10.43	India	2927.00.30	India
2001.90.45	India	2929.10.30	Russia
2006.00.70	Thailand	2933.99.85	India
2008.30.60	India	2934.20.35	India
2008.30.96	Panama	3808.93.20	Indonesia
2008.99.50	Thailand	3824.90.31	Brazil
2103.90.40	Colombia	4006.10.00	India
2516.12.00	India	4101.20.70	Brazil
2516.20.20	India	4101.50.40	Brazil
2806.20.00	India	4101.90.40	Pakistan
2827.39.45	India	4101.90.50	Colombia
2830.90.20	Russia	4104.11.30	India
2831.90.00	India	4104.11.40	Argentina
2833.29.40	Turkey	4104.19.30	Pakistan
2836.99.40	India	4104.41.40	Argentina
2840.11.00	Turkey	4106.21.90	India
2840.19.00	Turkey	4107.11.60	Turkey
2903.19.10	India	4107.12.40	Thailand
2903.51.00	India	4107.12.70	Colombia
2903.59.11	India	4107.19.40	India
2905.49.10	India	4107.19.60	Brazil
2907.29.25	India	4107.91.40	India

4107.92.40	India	7403.12.00	India
4107.99.40	Pakistan	7409.39.50	Serbia
4202.92.04	Philippines	8112.12.00	Kazakhstan
4601.22.40	Philippines	8112.19.00	Kazakhstan
4602.19.05	India	8112.59.00	Russia
4602.19.23	Indonesia	8410.11.00	Brazil
5208.31.20	India	8410.13.00	Brazil
5208.52.10	India	8507.20.40	Philippines
5209.31.30	India	8507.40.40	Philippines
5209.41.30	India	9027.50.10	Philippines
5311.00.60	India	9305.10.40	India
5607.90.35	Philippines	9603.10.90	Sri Lanka
7113.20.25	India	9614.00.26	Turkey
7202.11.10	Georgia		

### **ANNEX III**

#### **HTS Subheadings and Countries Granted a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act**

4107.91.80 Argentina  
7413.00.10 Turkey

### **ANNEX IV**

#### **HTS Subheadings and Countries for a which a Waiver of the Application of Section 503(c)(2)(A) of the 1974 Act is Revoked**

Effective July 1, 2009, the waiver of the application of section 503(c)(2)(A) of the 1974 Act is revoked for the following HTS subheading and the country set out opposite such subheading.

7202.50.00 Kazakhstan

**ANNEX V****To make technical and conforming changes to  
the Harmonized Tariff Schedule of the United States**

Effective with respect to goods entered, or withdrawn from warehouse for consumption,  
on or after the dates set forth in the provisions below, the Harmonized Tariff Schedule  
of the United States (HTS) is modified as set forth herein:

1. Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after December 3, 2004, U.S. note 4 to subchapter IV of chapter 98 is modified by deleting the phrase “subheadings 9804.00.70 and” and by inserting in lieu thereof the word “subheading”.
2. Effective with respect to goods of Chile, under the terms of general note 26 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after January 1, 2009, U.S. note 13 to subchapter XI of chapter 99, subheadings 9911.20.05 through 9911.20.15 and the immediate superior text thereto are deleted.
3. Effective with respect to goods of Oman, under the terms of general note 31 to the tariff schedule, entered, or withdrawn from warehouse for consumption, on or after January 1, 2009, the special duty rate for subheading 0201.10.50 is modified to read as follows: “See 9916.02.05-9916.02.10 (OM)”.