

# Presidential Documents

Title 3—

Proclamation of October 29, 2012

The President

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

By the President of the United States of America

### A Proclamation

1. On June 28, 2007, the United States entered into the United States-Panama Trade Promotion Agreement (the “Agreement”). The Congress approved the Agreement in section 101(a) of the United States-Panama Trade Promotion Agreement Implementation Act (the “Implementation Act”) (Public Law 112–43, 125 Stat. 497).

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 20 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 3.3, 3.5, 3.6, and 3.27, 3.28, and 3.29 and Annex 3.3 of the Agreement.

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

5. Consistent with section 201(a)(3) of the Implementation Act, Panama is removed from the enumeration of beneficiary countries under the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2701 *et seq.*), subject to the exceptions set out in section 201(a)(3)(B) of the Implementation Act.

6. Consistent with section 213(b)(5)(D) of the CBERA, as amended by the Caribbean Basin Trade Partnership Act (CBTPA) (Public Law 106–200), Panama is removed from the enumeration of designated CBTPA beneficiary countries.

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 Panama is no longer eligible to receive the benefits of the GSP, the CBERA, and the CBTPA.

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 3.3 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)(4) 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 Panama and 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 3.25 of the Agreement any fabric, yarn, or fiber determined to be not available in commercial quantities in a timely manner in Panama and the United States; or to remove from the list in Annex 3.25 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 Panama 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 202(o)(2)(B)(ii) of the United States-Korea Free Trade Agreement Implementation Act authorizes the President, subject to the consultation and layover provisions of section 104, to proclaim before the end of the 1-year period beginning on the date on which the United States-Korea Free Trade Agreement (the “Korea FTA”) enters into force, modifications to the HTS to correct any typographical, clerical, or non-substantive technical error regarding the provisions of chapters 50 through 63 (as included in Annex 4–A of the Korea FTA). The Korea FTA entered into force on March 15, 2012.

15. A provision in chapter 61 (as included in Annex 4–A of the Korea FTA) contained a clerical error that the United States and Korea have agreed to correct. I have determined that a modification to the HTS is necessary to correct this error and to provide the intended tariff treatment. The requirements of the consultation and layover provisions for the proposed correction of this error were completed on August 17, 2012.

16. Presidential Proclamation 8341 of January 16, 2009, implemented the U.S. tariff commitments under the United States-Peru Trade Promotion Agreement and incorporated by reference Publication 4058 of the U.S. International Trade Commission (the “Commission”), entitled “Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Peru Free Trade Agreement.” Annex I of Publication 4058 included a technical error that affected the tariff treatment of a good of Peru and omitted cross-references for certain tariff lines. I have determined that modifications to the HTS are necessary to correct this error and omission.

17. Presidential Proclamation 8783 of March 6, 2012, implemented U.S. tariff commitments under the Korea FTA 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.” Annexes I and II to that publication each included a technical error that affected the tariff treatment accorded

to certain goods of Korea. I have determined that a modification to the HTS is necessary to correct these errors.

18. Presidential Proclamation 8818 of May 14, 2012, implemented U.S. tariff commitments under the United States-Colombia Trade Promotion Agreement and incorporated by reference 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.” Annexes I and II to that publication included technical errors that affected the tariff treatment accorded to certain goods of Colombia and omitted cross-references for certain tariff lines. I have determined that modifications to the HTS are necessary to correct the technical errors and omissions.

19. 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, sections 105(a), 201, 203, and 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 Panama for the purposes of the Agreement, and to reflect Panama’s removal from the list of beneficiary developing countries under the GSP, and from the list of beneficiary countries under CBERA and CBTPA, the HTS is modified as set forth in Annex I of Publication 4349 of the Commission, entitled “Modifications to the Harmonized Tariff Schedule of the United States to Implement the United States-Panama 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 4349.

(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 4349, 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) 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.

(5) The CITA is authorized to exercise the authority of the President under section 203(o)(4) 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 Panama 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 Panama and the United States to the list in Annex 3.25 of the Agreement;

or to remove from the list in Annex 3.25 of the Agreement any fabric, yarn, or fiber that the President has previously added to that list.

(6) 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.

(7) 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 Panamanian 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.

(8) 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.

(9) The USTR 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 (7) of this proclamation by the CITA to the list of fabrics, yarns, or fibers in Annex 3.25 of the Agreement.

(10) 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 E of Annex III to Publication 4349.

(11) The modifications to the HTS set forth in section E of Annex III to Publication 4349 shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after March 15, 2012.

(12) In order to provide the intended tariff treatment to certain goods of Peru, U.S. note 28 to subchapter XXII of chapter 98 of the HTS is modified as set forth in section A of Annex III to Publication 4349. In addition with respect to goods of Peru under the terms of general note 32, the HTS is modified as set forth in section D of Annex III to Publication 4349.

(13) The modifications to the HTS set forth in sections A and D of Annex III to Publication 4349 shall be effective with respect to goods of Peru entered, or withdrawn from warehouse for consumption, on or after February 1, 2009.

(14) In order to provide the intended tariff treatment to certain goods of Colombia the HTS is modified as set forth in sections C and D of Annex III to Publication 4349.

(15) The modifications to the HTS set forth in sections C and D of Annex III to Publication 4349 are effective with respect to goods of Colombia entered, or withdrawn from warehouse for consumption, on or after May 15, 2012.

(16) 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 twenty-ninth day of October, in the year of our Lord two thousand twelve, and of the Independence of the United States of America the two hundred and thirty-seventh.

A handwritten signature in black ink, appearing to be "Barack Obama", with a large circular flourish and a vertical line through it.