

Proclamation 8296 of September 30, 2008**To Modify Duty-free Treatment Under The Caribbean Basin Economic Recovery Act and for Other Purposes**

By the President of the United States of America

A Proclamation

1. Section 213A(b) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703a(b)) (the “CBERA”), as amended by section 15402(a)(2) of the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (part 1 of subtitle D of title XV of Public Law 110–246, 122 Stat. 2289) (the “HOPE II Act”), provides that preferential tariff treatment may be provided for certain apparel and other articles originating in Haiti that are imported directly from Haiti or the Dominican Republic into the customs territory of the United States.

2. Pursuant to section 213A(f)(3) of CBERA (19 U.S.C. 2703a(f)(3)), as redesignated by section 15403(2) of the HOPE II Act (122 Stat. 2302), apparel and other articles described in section 213A(b) of CBERA that are shipped from the Dominican Republic to the United States directly or through the territory of an intermediate country shall not qualify for the preferential tariff treatment provided for under section 213A(b) until the President certifies to the Congress that Haiti and the Dominican Republic have developed procedures to prevent unlawful transshipment of the articles and the use of counterfeit documents related to the importation of the articles into the United States.

3. I have determined, and hereby certify, that Haiti and the Dominican Republic have developed the procedures described in section 213A(f)(3) of CBERA.

4. Section 15406 of the HOPE II Act (122 Stat. 2308) authorizes the President to exercise the authority provided under section 604 of the Trade Act of 1974, as amended (19 U.S.C. 2483) (the “1974 Act”), to proclaim such modifications to the Harmonized Tariff Schedule of the United States (HTS) as may be necessary to carry out the HOPE II Act.

5. I have determined that it is appropriate to authorize the United States Trade Representative (USTR) to perform the following functions: the functions set forth in section 213A(d)(4) of CBERA, as amended (122 Stat. 2307; 19 U.S.C. 2703a(d)(4)); the reporting function set forth in section 213A(e)(1)(B)(ii) of CBERA, as amended (122 Stat. 2302; 19 U.S.C. 2703a(e)(1)(B)(ii)); the consultation function set forth in section 213A(e)(1)(C)(i) of CBERA, as amended (122 Stat. 2302–3; 19 U.S.C. 2703a(e)(1)(C)(i)); and the functions set forth in section 213A(e)(5) of CBERA, as amended (122 Stat. 2307; 19 U.S.C. 2703a(e)(5)).

6. I have determined that it is appropriate to authorize the Secretary of Labor, in consultation with the USTR, to perform the functions related to identifying producers and seeking to provide assistance to such producers set forth in section 213A(e)(4)(B)(i) and (ii) of CBERA, as amended (122 Stat. 2306; 19 U.S.C. 2703a(e)(4)(B)(i), (ii)).

7. In Presidential Proclamation 8272 of June 30, 2008, I waived, pursuant to section 503(d)(1) of the 1974 Act (19 U.S.C. 2463(d)(1)), the application

of the competitive need limitations in section 503(c)(2)(A) of the 1974 Act (19 U.S.C. 2463(c)(2)(A)) with respect to certain articles from Turkey. A technical rectification to the HTS is required to provide the intended tariff treatment.

8. Section 604 of the 1974 Act 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.

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 section 15406 of the HOPE II Act, section 604 of the 1974 Act, and section 301 of title 3, United States Code, do proclaim that:

(1) In order to provide the tariff treatment for articles imported directly from Haiti or the Dominican Republic provided for in section 213A(b) of CBERA, as amended by the HOPE II Act, the HTS is modified as set forth in the Annex to this proclamation.

(2) The modifications to the HTS set forth in the Annex to this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date set forth in the Annex.

(3) The USTR is hereby authorized to perform the functions set forth in section 213A(d)(4) of CBERA; the reporting function set forth in section 213A(e)(1)(B)(ii) of CBERA; the consultation function set forth in section 213A(e)(1)(C)(i) of CBERA; and the functions set forth in section 213A(e)(5) of CBERA.

(4) The Secretary of Labor, in consultation with the USTR, is hereby authorized to perform the functions related to identifying producers and seeking to provide assistance to such producers set forth in section 213A(e)(4)(B)(i) and (ii) of CBERA.

(5) In order to correct technical errors in Presidential Proclamation 8272, General Note 4(d) of the HTS is modified by deleting “7413.00.50 Turkey,” and the Rates of Duty 1-Special subcolumn for HTS subheading 7413.00.50 is modified by deleting the symbol “A*” and inserting the symbol “A” in lieu thereof, effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after July 1, 2008.

(6) The USTR shall notify the Congress of this proclamation and certification.

(7) 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 thirtieth day of September, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-third.

GEORGE W. BUSH

ANNEX

**TO MODIFY CERTAIN PROVISIONS OF
THE HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES**

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2008, subchapter XX of chapter 98 of the Harmonized Tariff Schedule of the United States (HTS) is hereby modified as set forth below.

1. U.S. note 6(c) to such subchapter is modified by inserting after "from Haiti" the phrase "or the Dominican Republic".

2. U.S. note 6(e)(iv) and its subdivisions (A), (B), and (C) are all deleted, and the following new subdivision is inserted in lieu thereof:

"(iv) Entries of apparel articles that receive preferential treatment under any provision of law other than this note or are subject to the column 1-general rate of duty under the tariff schedule are not included in the annual aggregation under subdivision (e)(i) or (e)(ii) of this note unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries in such aggregation."

3. U.S. note 6(g) is modified by--

- (a) designating the existing text as subdivision (i);
- (b) striking "9820.61.25, 9820.61.30 and 9820.62.12" and inserting in lieu thereof "9820.61.25 and 9820.61.30";
- (c) striking "1.5", "1.75", and "2" from the column labeled "Percentage" in the table and inserting in lieu thereof "1.25", "1.25", and "1.25", respectively; and
- (d) by inserting the following new subdivision (ii):

"(ii) Any apparel article that qualifies for preferential treatment under subdivisions (h) through (p), inclusive, of this note or any other provision of the tariff schedule shall not be subject to, or included in the calculation of, the quantitative limitations under subdivision (g)(i) of this note."

4. Subdivision (h) of U.S. note 6 is deleted and the following new provisions are inserted in lieu thereof:

- "(h) (i) The preferential treatment provided under heading 9820.62.05 shall be extended to any apparel article classifiable under chapter 62 of the tariff schedule that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, subject to subdivisions (h)(ii) and (h)(iii) of this note, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made.
- (ii) The preferential treatment provided under subdivision (h)(i) of this note shall be extended, in the 1-year period beginning October 1, 2008, and in each of the nine succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such subdivision.
- (iii) Any apparel article that qualifies for preferential treatment under subdivision (g) or subdivisions (i) through (p), inclusive, of this note or any other provision of the

tariff schedule shall not be subject to, or included in the calculation of, the quantitative limitation under subdivision (ii) of this note."

5. The text of U.S. note 6(i) is modified to read as follows:

"The preferential treatment provided under heading 9820.62.12 shall be extended to any article classifiable in subheading 6212.10 of the tariff schedule, if the article is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made."

6. U.S. note 6 is modified by inserting the following new subdivisions in alphabetical sequence:

- "(j) (i) The preferential treatment provided in heading 9820.61.35 shall be extended to any apparel article classifiable under chapter 61 of the tariff schedule that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, subject to subdivisions (j)(ii), (j)(iii) and (j)(iv) of this note, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made.
- (ii) The preferential treatment described in subdivision (j)(i) of this note shall not apply to the following:
- (A) the following apparel articles of cotton, for men or boys, that are classifiable under subheading 6109.10.00 of the tariff schedule:
- (1) all white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim or embroidery;
- (2) all white singlets, without pockets, trim or embroidery;
- (3) other T-shirts, but not including thermal undershirts;
- (B) T-shirts for men or boys that are classifiable under subheading 6109.90.10;
- (C) the following apparel articles of cotton, for men or boys, that are classifiable under subheading 6110.20.20 of the tariff schedule:
- (1) sweatshirts; or
- (2) pullovers, other than sweaters, vests or garments imported as part of playsuits; or
- (D) sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable under subheading 6110.30.30 of the tariff schedule.
- (iii) The preferential treatment described in subdivision (j)(i) of this note shall be extended, in the 1-year period beginning October 1, 2008, and in each of the 9 succeeding 1-year periods, to not more than 70,000,000 square meter equivalents of apparel articles described in such subdivision.
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- (iv) Any apparel that qualifies for preferential treatment under subdivisions (g) through (i) or (k) through (p), inclusive, of this note or any other provision of the tariff schedule shall not be subject to, or included in the calculation of, the quantitative limitation under subdivision (j)(iii) of this note.
- (k) The preferential treatment provided in heading 9820.61.40 shall be extended to any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made:
 - (i) with respect to chapter 61, subheadings 6102.20.00, 6102.90.90 (for goods subject to cotton restraints), 6104.13.20, 6104.19.15, 6104.19.60 (for jackets imported as parts of suits), 6104.19.80 (for jackets imported as parts of suits and subject to cotton restraints or subject to man-made fiber restraints), 6104.22.00 (for garments described in heading 6102 or jackets and blazers described in heading 6104), 6104.29.20 (for garments described in heading 6102 or jackets and blazers described in heading 6104, the foregoing subject to cotton restraints), 6104.32.00, 6104.39.20 (for goods subject to cotton restraints), 6112.11.00 (for women's or girls' garments described in heading 6101 or 6102), 6113.00.90 (for coats and jackets of cotton, for women or girls) or 6117.90.90 (for coats and jackets of cotton); or
 - (ii) with respect to chapter 62, subheadings 6202.12.20, 6202.19.90 (for goods subject to cotton restraints), 6202.91.20 (for goods for women), 6202.92.15, 6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves), 6202.93.45, 6202.99.90 (for goods subject to cotton restraints), 6203.39.90 (for goods subject to wool restraints), 6204.12.00 (for jackets imported as parts of suits), 6204.13.20, 6204.19.20, 6204.19.80 (for jackets imported as parts of suits and subject to cotton restraints, or for goods subject to man-made fiber restraints), 6204.22.30 (for garments described in heading 6202, or for jackets and blazers described in heading 6204), 6204.23.00, 6204.29, 6204.32, 6204.33.20, 6204.39.80, 6204.42.30 (for garments for girls, other than of corduroy), 6204.43.40 (for garments for girls), 6204.44.40 (for garments for girls), 6205.20.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6205.30.20 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale), 6207 (for boxers, pajamas or nightwear only), 6208 (for boxers, pajamas or nightwear only), 6209.20.10, 6210.30.90 (for garments other than of linen), 6210.50.90 (for anoraks), 6211.20.15 (for anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets), for women or girls, of cotton, imported as parts of ski suits), 6211.20.58 (for goods of cotton), 6211.41.00 (for jackets and jacket-type garments excluded from heading 6202), 6211.42.00 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202), 6212.10 or 6217.90.90 (for coats and jackets, of cotton).
- (l) The preferential tariff treatment provided in heading 9820.42.05 shall be extended to any article classifiable under subheadings 4202.12, 4202.22, 4202.32 or 4202.92 of the tariff schedule that is wholly assembled in Haiti and is imported directly from Haiti or the

Dominican Republic, without regard to the source of the fabric, components or materials from which the article is made.

- (m) The preferential tariff treatment provided in headings 9820.65.05 shall be extended to any article classifiable under heading 6501, 6502 or 6504 or subheading 6505.90 of the tariff schedule that is wholly assembled, knit-to-shape or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made.
- (n) The preferential tariff treatment provided in heading 9820.62.20 shall be extended to any of the following apparel articles that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the article is made:
 - (i) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable under subheading 6208.91.30, or of man-made fibers, that are classifiable under subheading 6208.92.00; or
 - (ii) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable under subheading 6208.99.20.
- (o) The preferential treatment provided under heading 9820.62.25 shall be extended to apparel articles wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and imported directly from Haiti or the Dominican Republic, without regard to the source of the fabric, fabric components, components knit-to-shape or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate that reflects the amount of credits equal to the total square meter equivalents of such apparel articles, in accordance with the program established by the Secretary of Commerce pursuant to section 15402 of Public Law 110-246. For purposes of determining the quantity of square meter equivalents under this subdivision, the conversion factors listed in "Correlation: U.S. Textile and Apparel Industry Category System with the Harmonized Tariff Schedule of the United States of America, 2008" or its successor publications of the United States Department of Commerce shall apply.
- (p) The preferential treatment provided under heading 9820.62.30 shall be extended to any apparel article that is wholly assembled, or knit-to-shape, in Haiti from any combination of fabrics, fabric components, components knit-to-shape or yarns and is imported directly from Haiti or the Dominican Republic, without regard to the source of the fabrics, fabric components, components knit-to-shape or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape or yarns comprising the component that determines the tariff classification of the article are of any of the following:
 - (i) fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under general note 12(t) to the tariff schedule;
 - (ii) fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of--
 - (A) heading 9820.11.27;
 - (B) heading 9819.11.24;

