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Part VII

The President

Proclamation 7857--To Implement the United States-**Australia Free Trade**
Agreement

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Title 3--
The President

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Proclamation 7857 of December 20, 2004

To Implement the United States-**Australia Free Trade**

©MDBU*ERR01*©MDNM Agreement

By the President of the United States of America

A Proclamation

1. On May 18, 2004, the United States entered into the United States-**Australia Free Trade** Agreement (USAFTA). The USAFTA was approved by the Congress in section 101(a) of the United States-**Australia Free Trade** Agreement Implementation Act (the ``USAFTA Act'') (Public Law 108-286, 118 Stat. 919) (19 U.S.C. 3805 note).

2. Section 105(a) of the USAFTA 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 USAFTA.

3. Section 201 of the USAFTA 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, and 2.6, and the schedule of reductions with respect to **Australia** set forth in Annex 2-B, of the USAFTA.

4. Section 203 of the USAFTA Act provides certain rules for determining whether a good is an originating good for the purpose of implementing preferential tariff treatment under the USAFTA. I have decided that it is necessary to include these rules of origin, together with particular rules applicable to certain other goods, in the Harmonized Tariff Schedule of the United States (HTS).

5. Section 206 of the USAFTA Act authorizes the President to take certain enforcement actions relating to **trade** with **Australia** in textile and apparel goods.

6. Sections 321-328 of the USAFTA Act authorize 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.

7. Executive Order 11651 of March 3, 1972, as amended, establishes the Committee for the Implementation of Textile Agreements (CITA) to supervise the implementation of textile **trade** agreements.

8. Section 604 of the **Trade** Act of 1974 (the "1974 Act") (19 U.S.C. 2483), as amended, 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 but not limited to sections 105(a), 201, 203, 206, and 321-328 of the USAFTA Act, section 301 of title 3, United States Code, and section 604 of the 1974 Act, do proclaim that:

(1) In order to provide generally for the preferential tariff treatment being accorded under the USAFTA, to set forth rules for determining whether

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goods imported into the customs territory of the United States are eligible for preferential tariff treatment under the USAFTA, to provide certain other treatment to originating goods for the purposes of the USAFTA, and to provide tariff-rate quotas with respect to certain originating goods, the HTS is modified as set forth in Annex I of Publication No. 3722 of the United States International **Trade** Commission, entitled Modifications to the Harmonized Tariff Schedule of the United States Implementing the United States-**Australia Free Trade** Agreement (Publication 3722), which is incorporated by reference into this proclamation.

(2) In order to implement the initial stage of duty elimination provided for in the USAFTA, to provide tariff-rate quotas with respect to certain originating goods, and to provide for future staged reductions in duties for originating products of **Australia** for purposes of the USAFTA, the HTS is modified as provided in Annex II of Publication 3722, effective on the dates specified in the relevant sections of such publication and on any subsequent dates set forth for such duty reductions in that publication.

(3) The Secretary of Commerce is authorized to exercise the authority of the President under section 105(a) of the USAFTA Act to establish or designate an

office within the Department of Commerce to carry out the functions set forth in that section.

(4) (a) The amendments to the HTS made by paragraphs (1) and (2) 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 II to Publication 3722.

(b) Except as provided in paragraph 4(a) of this proclamation, this proclamation shall be effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after January 1, 2005.

(5) The CITA is authorized to exercise the authority of the President under section 206 of the USAFTA Act to exclude textile and apparel goods from the customs territory of the United States; to determine whether an enterprise's production of, and capability to produce, goods are consistent with statements by the enterprise; to find that an enterprise has knowingly or willfully engaged in circumvention; and to deny preferential tariff treatment to textile and apparel goods.

(6) The CITA is authorized to exercise the authority of the President under sections 321-328 of the USAFTA Act to review requests, including allegations of critical circumstances, and to determine whether to commence consideration of such requests; 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 an Australian 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 such a determination; and if critical

circumstances are alleged, to determine whether there is clear evidence that imports from **Australia** have increased as the result of the reduction or elimination of a customs duty under the USAFTA, whether there is clear evidence that such imports 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 whether delay in taking action would cause damage to that industry that would be difficult to repair; and to provide provisional relief with respect to imports that are subject to an affirmative determination of critical circumstances that is necessary to remedy or prevent the serious damage.

(7) 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.

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IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of December, in the year of our Lord two thousand four, and of the Independence of the United States of America the two hundred and twenty-ninth.

(Presidential Sig.)B

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