DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 10 AND 163

[T.D. 00–68]

RIN 1515–AC76

United States-Caribbean Basin Trade Partnership Act and Caribbean Basin Initiative

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Interim regulations; solicitation of comments.

SUMMARY: This document sets forth interim amendments to the Customs Regulations to implement the trade benefit provisions for Caribbean Basin countries contained in Title II of the Trade and Development Act of 2000. The trade benefits under Title II, also referred to as the United States-Caribbean Basin Trade Partnership Act (the CBTPA), apply to Caribbean Basin countries designated by the President and involve the entry of specific textile and apparel articles free of duty and free of any quantitative restrictions, limitations, or consultation levels and the extension of NAFTA duty treatment standards to non-textile articles that are excluded from duty-free treatment under the Caribbean Basin Initiative (CBI) program. The regulatory amendments contained in this document reflect and clarify the statutory standards for the trade benefits under the CBTPA and also include specific documentary, procedural and other related requirements that must be met in order to obtain those benefits. Finally, this document also includes some interim amendments to the existing Customs Regulations implementing the CBI to conform those regulations to previous amendments to the CBI statute.

DATES: Interim rule effective October 1, 2000; comments must be submitted by December 4, 2000.

ADDRESSES: Written comments may be addressed to, and inspected at, the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Operational issues: Cathy Sauceda, Office of Field Operations (202–927–4198).

Legal issues regarding textiles: Cynthia Reese, Office of Regulations and Rulings (202–927–1361).

Other legal issues: Craig Walker, Office of Regulations and Rulings (202–927–1116).

SUPPLEMENTARY INFORMATION:

Background

United States-Caribbean Basin Trade Partnership Act

On May 18, 2000, President Clinton signed into law the Trade and Development Act of 2000 (the ''Act''), Public Law 106–200, 114 Stat. 251. Title II of the Act concerns trade benefits for the Caribbean Basin and is referred to in the Act as the ''United States-Caribbean Basin Trade Partnership Act'' (the ''CBTPA'').

Subtitle A of Title II of the Act concerns trade policy for Caribbean Basin countries and consists of section 201 (short title), section 202 (findings and policy), and section 203 (definitions). Subtitle B of Title II of the Act addresses trade benefits for Caribbean Basin countries and consists of section 211 (temporary provisions to provide additional trade benefits to certain beneficiary countries), section 212 (duty-free treatment for certain beverages made with Caribbean rum), and section 213 (meetings of trade ministers and USTR). This document specifically concerns the additional trade benefit provisions of section 211.

Subsection (a) of section 211 of the Act revises section 213(b) of the Caribbean Basin Economic Recovery Act (the CBERA, also referred to as the Caribbean Basin Initiative, or CBI, statute codified at 19 U.S.C. 2701–2707). The CBI is a duty preference program that applies to exports from those Caribbean Basin countries that have been designated by the President as program beneficiaries. Although the origin and related rules for eligibility for duty-free treatment under the CBI are similar to those under the older Generalized System of Preferences duty-free program (the GSP, Title V of the Trade Act of 1974, codified at 19 U.S.C. 2461–2467), the CBI differs from the GSP in a number of respects, including the fact that under the CBI all articles are eligible for duty-free treatment (that is, they do not have to be specially designated as eligible by the President) except those that are specifically excluded under the statute. Prior to the amendment effected by subsection (a) of section 211 of the Act, section 213(b) of the CBI statute was headed ''articles to which duty-free treatment does not apply'' and consisted only of a list of specific types of products excluded from CBI duty-free treatment.

As a result of the amendment made by subsection (a) of section 211 of the Act, section 213(b) of the CBI statute now is headed ''import-sensitive articles'' and consists of five principal paragraphs. These five paragraphs are summarized below.

Paragraph (1) of amended section 213(b) provides that, subject to paragraphs (2) through (5), the duty-free treatment provided under the CBI does not apply to the following:

1. Textile and apparel articles which were not eligible articles for purposes of the CBI on January 1, 1994, as the CBI was in effect on that date [subparagraph (A)];

2. Footwear not designated at the time of the effective date of the CBI (that is, August 5, 1983) as eligible articles for the purpose of the GSP [subparagraph (B)];

3. Tuna, prepared or preserved in any manner, in airtight containers [subparagraph (C)];

4. Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States (HTSUS) [subparagraph (D)];

5. Watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if those watches or watch parts contain any material which is the product of any country with respect to which HTSUS column 2 rates of duty apply [subparagraph (E)]; or

6. Articles to which reduced rates of duty apply under section 213(h) (that is, handbags, luggage, flat goods, work gloves, and leather wearing apparel that are a product of a CBI beneficiary country and that were not designated on August 5, 1983, as eligible articles for purposes of the GSP) [subparagraph (F)].

The content of this new paragraph (1) corresponds to that of entire former section 213(b) but with some minor wording changes. Therefore, paragraphs (2) through (5) of amended section 213(b), as discussed below, are entirely new provisions.

Paragraph (2) of amended section 213(b) concerns textile and apparel products. Paragraph (2)(A) provides, during the ''transition period,'' for the application of preferential treatment described in paragraph (2)(B) to specific textile and apparel articles. Under paragraph (2)(B), ''preferential treatment'' means, except where the President takes bilateral emergency action under paragraph (2)(E), that the articles in question may enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels. Section 213(b)(5)(D) defines ''transition period'' for purposes of section 213(b) as meaning, with respect to a CBTPA beneficiary country, the period that

begins on October 1, 2000, and ends on the earlier of September 30, 2008, or the date on which a free trade agreement enters into force with respect to the United States and the CBTPA beneficiary country. Section 213(b)(5)(B) defines ''CBTPA beneficiary country'' for purposes of section 213(b) as meaning any ''beneficiary country'' as defined in section 212(a)(1)(A) of the CBI statute (19 U.S.C. 2702(a)(1)(A)) which the President designates as a CBTPA beneficiary country, taking into account the designation criteria specified in sections 212(b) and (c) and other appropriate designation criteria including those specified under section 213(b)(5)(B). The textile and apparel articles under paragraph (2)(A) of section 213(b) to which the preferential treatment applies are as follows:

1. Apparel articles assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS [paragraph (2)(A)(i)(I)];

2. Apparel articles assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes [paragraph (2)(A)(i)(II)];

3. Apparel articles cut in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States), if those articles are assembled in one or more of those countries with thread formed in the United States [paragraph (2)(A)(ii)];

4. Apparel articles knit to shape (other than socks provided for in heading 6115 of the HTSUS) in a CBTPA beneficiary country from yarns wholly formed in the United States, and knit apparel articles (other than non-underwear t-shirts) cut and wholly assembled in one or more CBTPA beneficiary countries from fabric formed in one or more CBTPA beneficiary countries or the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed in one or more CBTPA beneficiary countries), but subject to the application of annual quantitative limits expressed in square meter equivalents during the 8-year transition period and with percentage increases of those limits in each of the first four years [paragraph (2)(A)(iii)(I)];

5. Non-underwear t-shirts, classifiable under subheadings 6109.10.00 and 6109.90.10 of the HTSUS, made in one or more CBTPA beneficiary countries from fabric formed in one or more CBTPA beneficiary countries from yarns wholly formed in the United States, but subject to the application of annual quantitative limits expressed in dozens and with percentage increases of those limits in each of the first four years and with application of a set quantitative limit for each year after the fourth year [paragraph (2)(A)(iii)(III)];

6. Brassieres classifiable under subheading 6212.10 of the HTSUS, if both cut and sewn or otherwise assembled in the United States, or one or more CBTPA beneficiary countries, or both, but subject to a requirement that, in each of seven 1-year periods starting on October 1, 2001, at least 75 percent of the value of the fabric contained in the articles in the preceding year was attributed to fabric components formed in the United States (the 75 percent standard rises to 85 percent for a producer found by Customs to have not met the 75 percent standard in the preceding year) [paragraph (2)(A)(iv)];

7. Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries, from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries, to the extent that apparel articles of those fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the North American Free Trade Agreement (NAFTA). (This CBTPA provision in effect applies to apparel articles which are originating goods, and thus are entitled to preferential duty treatment, under the NAFTA tariff shift and related rules based on the fact that the fabrics or yarns used to produce them were determined to be in short supply in the context of the NAFTA. The fabrics and yarns in question include fine count cotton knitted fabrics for certain apparel, linen, silk, cotton velveteen, fine wale corduroy, Harris Tweed, certain woven fabrics made with animal hairs, certain lightweight, high thread count poly-cotton woven fabrics, and certain lightweight, high thread count broadwoven fabrics used in the production of men's and boys' shirts—see House Report 106–606, 106th Congress, 2d Session, at page 77, which explains a substantively identical provision of the African Growth and Opportunity Act that is contained in Title I of the Act.) [paragraph (2)(A)(v)(I)];

8. Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries, from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries and that is not described in paragraph (2)(A)(v)(I), to the extent that the President has determined that the fabric or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed the treatment provided under paragraph (2)(A)(v)(I) [paragraph (2)(A)(v)(II)];

9. A handloomed, handmade, or folklore textile or apparel article of a CBTPA beneficiary country that the President and representatives of the CBTPA beneficiary country concerned mutually agree upon as being a handloomed, handmade, or folklore good of a kind described in section 2.3(a), (b), or (c) or Appendix 3.1.B.11 of Annex 300-B of the NAFTA and that is certified as such by the competent authority of the beneficiary country [paragraphs (2)(A)(vi) and (2)(C)];

10. Textile luggage assembled in a CBTPA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTSUS [paragraph (2)(A)(viii)(I)]; and

11. Textile luggage assembled from fabric cut in a CBTPA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States [paragraph (2)(A)(viii)(II)].

In addition, paragraph (2)(A)(vii) sets forth special rules that apply for purposes of determining the eligibility of articles for preferential treatment under paragraph (2). These special rules are as follows:

1. Paragraph (2)(A)(vii)(I) sets forth a rule regarding the treatment of findings and trimmings. It provides that an article otherwise eligible for preferential

treatment under paragraph (2) will not be ineligible for that treatment because the article contains findings or trimmings of foreign origin, if those findings and trimmings do not exceed 25 percent of the cost of the components of the assembled product. This provision specifies the following as examples of findings and trimmings: Sewing thread, hooks and eyes, snaps, buttons, ''bow buds,'' decorative lace trim, elastic strips (but only if they are each less than 1 inch in width and are used in the production of brassieres), zippers (including zipper tapes), and labels. However, this provision also provides that sewing thread will not be treated as findings or trimmings in the case of an article described in paragraph (2)(A)(ii) (because that paragraph specifies that the thread used in the assembly of the article must be formed in the United States and thus cannot be of ''foreign'' origin).

2. Paragraph (2)(A)(vii)(II) sets forth a rule regarding the treatment of specific interlinings, that is, a chest type plate, ''hymo'' piece, or ''sleeve header,'' of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments. Under this rule, an article otherwise eligible for preferential treatment under paragraph (2) will not be ineligible for that treatment because the article contains interlinings of foreign origin, if the value of those interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article. This provision also provides for the termination of this treatment of interlinings if the President makes a determination that United States manufacturers are producing those interlinings in the United States in commercial quantities.

3. Paragraph (2)(A)(vii)(III) sets forth a *de minimis* rule which provides that an article that would otherwise be ineligible for preferential treatment under paragraph (2) because the article contains fibers or yarns not wholly formed in the United States or in one or more CBTPA beneficiary countries will not be ineligible for that treatment if the total weight of all those fibers and yarns is not more than 7 percent of the total weight of the good. However, this provision also states that, notwithstanding the foregoing rule, an apparel article containing elastomeric yarns will be eligible for preferential treatment under paragraph (2) only if those yarns are wholly formed in the United States.

4. Finally, paragraph (2)(A)(vii)(IV) sets forth a special origin rule that provides that an article otherwise eligible for preferential treatment under paragraph (2)(A)(i) or paragraph (2)(A)(ii) will not be ineligible for that treatment because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTSUS duty-free from a country that is a party to an agreement with the United States establishing a free trade area, which entered into force before January 1, 1995.

Paragraph (3) of amended section 213(b) is entitled ''transition period treatment of certain other articles originating in beneficiary countries.'' Paragraph (3)(A) provides that, except in the case of any article accorded duty-free treatment under U.S. Note 2(b) to Subchapter II of Chapter 98 of the HTSUS (that is, certain articles assembled or processed in a CBI beneficiary country in whole of components or ingredients that are a product of the United States), the tariff treatment accorded at any time during the transition period to any article referred to in any of subparagraphs (B) through (F) of paragraph (1) that is a ''CBTPA originating good'' will be identical to the tariff treatment that is accorded at that time under Annex 302.2 of the NAFTA to an article described in the same 8-digit subheading of the HTSUS that is a good of Mexico and is imported into the United States. Section 213(b)(5)(C)(i) defines ''CBTPA originating good'' for purposes of section 213(b) as meaning a good that meets the rules of origin for a good set forth in Chapter 4 of the NAFTA as implemented pursuant to United States law. Section 213(b)(5)(C)(ii) sets forth the following rules for applying Chapter 4 of the NAFTA with respect to a CBTPA beneficiary country for purposes of section 213(b): (1) Only the United States and a CBTPA beneficiary country may be treated as being a party to the NAFTA; (2) any reference to trade between the United States and Mexico will be deemed to refer to trade between the United States and a CBTPA beneficiary country; (3) any reference to a party will be deemed to refer to a CBTPA beneficiary country or the United States; and (4) any reference to parties will be deemed to refer to any combination of CBTPA beneficiary countries or to the United States and one or more CBTPA beneficiary countries (or any combination of those countries). In the case of handbags, luggage, flat goods, work gloves, and leather wearing apparel to which reduced rates of duty apply under section 213(h), paragraph (3)(B) of section 213(b) provides that, in implementing the provisions of paragraph (3)(A), the rate of duty under section 213(h) will apply if it is lower than the rate of duty resulting under paragraph (3)(A).

The effect of paragraph (3) of section 213(b) is to provide for the application of NAFTA tariff treatment to goods excluded from the CBI, except for textile and apparel articles (some of which are separately addressed under paragraph (2) of section 213(b) as discussed above). Thus, imports of footwear, canned tuna, petroleum and petroleum products, watches and watch parts, handbags, luggage, flat goods, work gloves, and leather wearing apparel would be eligible for a reduction in duty equal to the preference Mexican products enjoy in accordance with the staged duty-rate reductions set forth in Annex 302.2 of the NAFTA, provided that the merchandise in question meets the origin rules for a ''NAFTA originating good'' (in other words, it must meet the NAFTA rules of origin set forth in General Note 12 of the HTSUS and in the Appendix to Part 181 of the Customs Regulations (19 CFR Part 181)).

Paragraph (4) of amended section 213(b) is entitled ''Customs procedures'' and sets forth regulatory standards for purposes of preferential treatment under paragraph (2) or (3). It includes provisions relating to import procedures, prescribes a specific factual determination that the President must make regarding the implementation of certain procedures and requirements by each CBTPA beneficiary country, and sets forth responsibilities of Customs and the United States Trade Representative regarding the study of, and reporting to Congress on, cooperative and other actions taken by each CBTPA beneficiary country to prevent transshipment and circumvention in the case of textile and apparel goods. The specific provisions under paragraph (4) that require regulatory treatment in this document are the following:

1. Paragraph (4)(A)(i) provides that any importer that claims preferential treatment under paragraph (2) or (3) must comply with customs procedures similar in all material respects to the requirements of Article 502(1) of the NAFTA as implemented pursuant to United States law, in accordance with regulations promulgated by the Secretary of the Treasury. The NAFTA provision referred to in paragraph (4)(A)(i) concerns the use of a Certificate of Origin and specifically requires that

the importer (1) make a written declaration, based on a valid Certificate of Origin, that the imported good qualifies as an originating good, (2) have the Certificate in its possession at the time the declaration is made, (3) provide the Certificate to Customs on request, and (4) promptly make a corrected declaration and pay any duties owing where the importer has reason to believe that a Certificate on which a declaration was based contains information that is not correct.

2. Paragraph (4)(B) provides that the Certificate of Origin that otherwise would be required pursuant to the provisions of paragraph (4)(A)(i) will not be required in the case of an article imported under paragraph (2) or (3) if that Certificate of Origin would not be required under Article 503 of the NAFTA (as implemented pursuant to United States law), if the article were imported from Mexico. Article 503 of the NAFTA sets forth, with one general exception, three specific circumstances in which a NAFTA country may not require a Certificate of Origin.

Other Changes to the CBI Program

Section 235 of the Trade and Tariff Act of 1984 (Public Law 98–573, 98 Stat. 2948) amended section 213(a) of the CBI statute (19 U.S.C. 2703(a)) by adding at the end a new paragraph (a)(3) (now paragraph (a)(4)). This provision provides that (1) notwithstanding 19 U.S.C. 1311, the products of a beneficiary country which are imported directly from any beneficiary country into Puerto Rico may be entered under bond for processing or use in manufacturing in Puerto Rico, and (2) no duty will be imposed on the withdrawal from warehouse of the product of that processing or manufacturing if, at the time of that withdrawal, the product meets the requirements of section 213(a)(1)(B) (that is, the CBI 35 percent value-content requirement). In connection with the publication of the final CBI implementing regulations (see T.D. 84–237, published in the **Federal Register** at 49 FR 47986 on December 7, 1984), Customs noted that this amendment of the CBI statute was intended to allow processing or manufacturing in a Customs bonded manufacturing warehouse in Puerto Rico at the tail end of the manufacturing process so as to enable a product from a CBI beneficiary country to meet the 35 percent value-content requirement. Customs further noted in T.D. 84–237 that the amendment resulted in a significant change in the CBI rules of origin since an article could be substantially transformed in the Puerto Rican warehouse so as to lose its status as a product of a beneficiary country but would still be entitled to duty-free treatment upon withdrawal from the warehouse provided that (1) the article entered in the warehouse was a product of, and was imported directly from, a beneficiary country, and (2) the article withdrawn from the warehouse meets the 35 percent value-content requirement. Although no change was made to the CBI regulatory texts at that time in response to this statutory amendment, Customs now believes that it would be preferable for purposes of transparency to reflect this aspect of the CBI statute within the existing CBI regulatory structure. This document therefore includes a conforming amendment to the CBI regulations to accomplish this.

Section 212 of the Customs and Trade Act of 1990 (Public Law 101–382, 104 Stat. 629) amended section 213 of the CBI statute (1) by adding a new subsection (h) which requires the President to proclaim specified reductions in the rates of duty on handbags, luggage, flat goods, work gloves, and leather wearing apparel that are the product of a beneficiary country and that were not designated on August 5, 1983, as eligible articles for purposes of the GSP, and (2) by making consequential conforming changes to subsection (b) which, as indicated above, at that time consisted only of a list of products excluded from duty-free treatment under the CBI. Although some of these changes made by section 212 of the 1990 Act have been superseded by the changes made by subsection (a) of section 211 of the Act as discussed above, the basic reduced duty principle reflected in section 213(h) of the CBI statute remains intact and warrants regulatory treatment. Accordingly, regulatory amendments are included in this document for this purpose.

Finally, section 215 of the Customs and Trade Act of 1990 amended section 213(a) of the CBI statute by adding a new paragraph (5) which provides that the duty-free treatment provided for under the CBI will apply to an article (other than an article listed in section 213(b)) which is the growth, product, or manufacture of the Commonwealth of Puerto Rico if (1) the article is imported directly from the beneficiary country into the customs territory of the United States, (2) the article was by any means advanced in value or improved in condition in a beneficiary country, and (3) if any materials are added to the article in a beneficiary country, those materials are a product of a beneficiary country or the United States. This amendment was intended to ensure that a product made in Puerto Rico which is sent to a CBI beneficiary country for a minimal amount of processing would be eligible for duty-free treatment under the CBI when imported into the United States even though the article has not been substantially transformed in the CBI beneficiary country (see House Report 101–650, 101st Congress, 2d Session, at 131). This document includes an amendment to the Customs Regulations to prescribe standards for the application of this provision.

In addition, this document includes a number of editorial changes to the CBI regulatory texts to conform those texts to the statutory changes discussed above.

Section-by-Section Discussion of Interim Amendments

Section 10.191

The amendments to this section involve the definitions in paragraph (b) and include changing various cross-references to ''§ 10.198'' to reflect the addition of new §§ 10.198a and 10.198b as discussed below. In addition, paragraphs (b)(2)(i) and (b)(2)(ii) are revised, and a new paragraph (b)(2)(vi) is added, to reflect subparagraphs (1)(A), (B), and (F) of section 213(b) of the CBI statute as amended by subsection (a) of section 211 of the Act.

Sections 10.192 and 10.193

The amendments to these sections involve cross-reference changes similar to those made in § 10.191.

Section 10.195

The amendment to this section involves a revision of paragraph (b) (which concerns the addition of value in the U.S. Virgin Islands and in the Commonwealth of Puerto Rico) to accommodate the amendment to the CBI statute made by section 235 of the Trade and Tariff Act of 1984. The amendment consists of the designation of the existing regulatory text as paragraph (b)(1) and the addition of a new paragraph (b)(2) to cover manufacturing in a bonded warehouse in Puerto Rico after final exportation of an article from a beneficiary country. The paragraph (b)(2) text clarifies the statutory reference to ''products of'' a beneficiary country as meaning products that meet the ''grown, produced, or manufactured'' standard set forth in § 10.195(a), because the term ''product of'' has been consistently interpreted by Customs to refer to products that meet that standard and, since Congress is presumed to have known about that interpretation when it drafted the statute, Customs believes that this result

would be consistent with Congressional intent. For the same reason, the paragraph (b)(2) text clarifies the meaning of ''imported directly'' with reference to the provisions of § 10.193.

New § 10.198a

This section covers the basic duty reduction principle of section 213(h) of the CBI statute as added by section 212 of the Customs and Trade Act of 1990. The exception clause at the beginning of this new section has been included because of the potential effect that paragraph (3) of amended section 213(b) would have on the application of reduced duty rates under section 213(h)-see new § 10.233 discussed and set forth below. Although the relevant legislative history is silent on the question of what origin and preference rules should apply beyond the ''product of'' language of section 213(h), Customs does not believe that Congress intended that less stringent rules should apply for these import-sensitive products than would apply to other products that are eligible for full CBI duty-free treatment. Accordingly, this new § 10.198a incorporates by reference the ''imported directly'' and ''grown, produced, or manufactured'' and 35 percent value-content requirements of §§ 10.193 and 10.195.

New § 10.198b

This section covers the amendment of section 213(a) of the CBI statute made by section 215 of the Customs and Trade Act of 1990. Contrary to the approach taken in new § 10.198a and except as regards the ''imported directly'' requirement, the § 10.198b text does not incorporate by reference the normal CBI origin and preference regulatory standards because their application here would in some cases be inconsistent with the clear wording of the statutory provision in question.

New §§ 10.221 Through 10.227

These new sections are intended to implement those textile and apparel preferential treatment provisions within paragraphs (2), (4) and (5) of amended section 213(b) of the CBI statute that relate to U.S. import procedures and thus are appropriate for treatment in the Customs Regulations.

Section 10.221 outlines the statutory context for the new sections and is self-explanatory.

Section 10.222 sets forth definitions for various terms used in the new regulatory provisions. The following points are noted regarding these definitions:

1. The definition of ''apparel articles,'' by referring to goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6503, and 6504 and subheadings 6406.99 and 6505.90 of the HTSUS, is intended to reflect the scope of apparel under the Agreement on Textiles and Clothing annexed to the WTO Agreement and referred to in 19 U.S.C. 3511(d)(4).

2. The definition of ''assembled in one or more CBTPA beneficiary countries'' is based in part on the definition of ''wholly assembled'' in § 102.21(b)(6) of the Customs Regulations (19 CFR 102.21(b)(6)) but also adds a reference to thread as a material that is not considered to be a component for purposes of the definition. In addition, the definition is intended to allow a prior partial assembly in the United States, consistent with the overall structure of the CBTPA as reflected in the types of operations allowed under the program.

3. The definition of ''CBTPA beneficiary country'' is an adaptation of, and for purposes of this context is consistent with, the definition contained in section 213(b)(5)(B).

4. The definition of ''cut in one or more CBTPA beneficiary countries'' precludes any cutting operation performed in a country other than a CBTPA beneficiary country in accordance with the clear language of the statute.

5. The definition of ''knit-to-shape'' follows the definition in § 102.21(b)(3) of the Customs Regulations (19 CFR 102.21(b)(3)).

6. The definition of ''made in one or more CBTPA beneficiary countries'' refers specifically to non-underwear t-shirts because the defined expression appears only in paragraph (2)(A)(iii)(III) of amended section 213(b) which applies only to non-underwear t-shirts. Neither the statute nor the legislative history provides any explanation for the use of the words ''made in'' in this context. Since the statutory text requires that the articles be made in the CBTPA region from regionally-formed fabric, and in view of the fact that the production of t-shirts from fabric invariably involves both cutting of the fabric and assembly of the cut components, Customs interprets ''made in'' to refer to cutting and complete assembly.

7. The definition of ''major parts'' is taken from the definition in § 102.21(b)(4) of the Customs Regulations (19 CFR 102.21(b)(4)).

8. The definition of ''NAFTA'' is the same as that used in section 112(e)(3) under Title I of the Act and is appropriate for the present context because a distinction is made under the statute between the original Agreement signed by the United States, Canada, and Mexico (which this definition reflects) and the implementation of that Agreement under U.S. law.

9. The definition of ''preferential treatment'' reflects the terms of paragraph (2)(B) of amended section 213(b).

10. The definition of ''wholly assembled in one or more CBTPA beneficiary countries'' is intended to ensure, consistent with the wording of the statute and the clear meaning of ''wholly'' in this context, that all assembly operations (including any initial partial assembly or any tail-end assembly operation) will be performed in the countries that are the intended beneficiaries of the CBTPA program.

11. The definition of ''wholly formed'' relies in part on the definition of ''fabric-making process'' in § 102.21(b)(2) of the Customs Regulations (19 CFR 102.21(b)(2)) and also uses a similar approach for yarns and thread because the statute uses these terms with reference to fabrics, yarns, and thread. The definition is intended to ensure that all processes essential for yarn or thread or fabric formation are performed in the United States or CBTPA beneficiary countries.

Section 10.223 identifies the articles to which preferential treatment applies under paragraph (2) of amended section 213(b). Paragraph (a) identifies the various groups of textile and apparel articles described under paragraph (2)(A) of the statute and includes in the introductory text an ''imported directly'' requirement, consistent with the terms of the implementing Presidential Proclamation. Paragraph (b) covers the special rules contained in paragraph (2)(A)(vii) of the statute regarding: findings and trimmings; interlinings; the *de minimis* rule; and the rule for nylon filament yarn. Paragraph (c) explains what is meant by ''imported directly.'' The following specific points are noted regarding these regulatory texts:

1. With regard to paragraph (a)(2), which corresponds to paragraph (2)(A)(i)(II) of the statute, Customs notes that the statutory provision does not address the issue of whether the embroidery or stone-washing and other processes mentioned in that provision (which are principally finishing operations normally done after assembly) must be done in beneficiary countries. The relevant legislative history does not address the issue. The statute could be read to allow these processes to be done in a country that is not a CBTPA beneficiary country provided that, after these processes are completed, the article is returned to a CBTPA beneficiary country for direct

importation into the United States. However, Customs believes that this interpretation would not be compatible with the Congressional finding in section 202 of the Act that offering temporary benefits to Caribbean Basin countries will, among other things, promote the growth of free enterprise and economic opportunity in those neighboring countries, because it could have the effect of diverting those finishing operations to third countries and thus away from the intended beneficiaries under the Act. Customs has determined that limiting the performance of those processes to CBTPA beneficiary countries would be in accord with the findings of Congress and would be more consistent with the intent of the CBTPA program. Accordingly, in paragraph (a)(2) of the regulatory text, the words ''in a CBTPA beneficiary country'' have been added at the end after ''processes.''

2. In paragraphs (a)(4) and (a)(5) which correspond to paragraphs (2)(A)(iii)(I) and (2)(A)(iii)(III) of the statute, respectively, the parenthetical cross-reference and the t-shirt reference have been replaced by a reference to ''non-underwear t-shirts'' in order to simplify the text and clarify the relationship between the two provisions in this regard.

3. In paragraph (a)(6) which corresponds to paragraph (2)(A)(iv) of the statute, specific reference is made to ''brassieres'' in order to explain the coverage of the HTSUS provision referred to in the statute.

4. In paragraph (a)(8), which corresponds to paragraph (2)(A)(v)(II) of the statute, no reference has been made at the end to treatment provided ''for fabrics and yarn'' because treatment in this context must be read in the context of paragraph (2)(A)(v)(I) of the statute and therefore can only have reference to articles made from fabrics and yarn.

5. Paragraph (a)(12) reflects the terms of new HTSUS subheading 9820.11.18 which is set forth in the Annex to the implementing Proclamation referred to above.

6. Paragraph (b)(1) is divided into two parts: Paragraph (b)(1)(i) reflects the basic findings, trimmings, interlinings, and *de minimis* rules of paragraphs (2)(A)(vii)(I)–(III) of the statute, and paragraph (b)(1)(ii) is intended to clarify the relationship between findings and trimmings on the one hand and fibers and yarns on the other hand for purposes of applying the 25 percent by value and 7 percent by weight limitations under the statute. As regards paragraph (b)(1)(ii), Customs believes that some clarification is appropriate in this context because sometimes a fiber or yarn may be used in an article as a finding or trimming. The statute is ambiguous as to whether an article is ineligible if the total weight of all foreign fibers or yarns exceeds the 7 percent limit but the value of all foreign findings and trimmings does not exceed the 25 percent limit. Thus, the question arises as to which limitation should apply. In the absence of any guidance on this point in the relevant legislative history, Customs has concluded that the best approach is to give precedence to the findings and trimmings limitation. Thus, under paragraph (b)(1)(ii) a foreign yarn, for example, that is used in an article as a trimming would be subject to the 25 percent by value limitation rather than the 7 percent by weight limitation. In addition, the following points are noted regarding the paragraph (b)(1) texts:

a. In the first sentence of paragraph (b)(1)(i)(A), the words ''the value of'' have been added after the word ''if'' to clarify that it is the value of the findings and trimmings that must not exceed the 25 percent level. In addition, in the second sentence of paragraph (b)(1)(i)(A), the comma appearing in the statutory text between ''decorative lace'' and ''trim'' has been removed to clarify what Customs believes to be the intent (see section 112(d)(1)(A) of the Act which is essentially identical to paragraph (2)(A)(vii)(I) of the statute but employs the expression ''decorative lace trim''). Also in the second sentence of paragraph (b)(1)(i)(A), the words ''zippers, including zipper tapes and labels'' in paragraph (2)(A)(vii)(I) of the statute have been replaced with the words ''zippers (including zipper tapes), labels'' because there is no such thing as a ''zipper label'' and to ensure proper treatment of labels as findings and trimmings in their own right. Customs believes that the wording of these regulatory texts in these regards is consistent with the intent of Congress as reflected in the explanation of the provision in the relevant legislative history (see House Report 106–606, 106th Congress, 2d Session, at page 79);

b. A separate paragraph (b)(1)(i)(C) has been included to allow a combination of findings and trimmings and interlinings up to a total of 25 percent of the cost of the components of the assembled article, because Customs believes that was the result intended by Congress by the inclusion of the words ''(and any findings and trimmings)'' in paragraph (2)(A)(vii)(II)(aa) of the statute; and

c. The second sentence of paragraph (2)(A)(vii)(III) of the statute regarding elastomeric yarns has been included in the regulatory text as an exception at the end of paragraph (b)(1)(i)(D), which sets forth the *de minimis* rule, because Customs believes that both the placement and the wording of the elastomeric yarn provision in the statute support the conclusion that it is intended to operate only as an exception to the *de minimis* rule. The regulatory text refers specifically to any apparel article described in ''paragraph (a)(1) through (a)(5)'' because those are the only apparel article provisions under § 10.223 that specify ''yarns wholly formed in the United States.''

7. In paragraph (b)(2), which sets forth the special rule for nylon filament yarn of paragraph (2)(A)(vii)(IV) of the statute, specific reference is made to Canada, Mexico, and Israel because those are the only countries with which the United States had a free trade agreement that entered into force before January 1, 1995.

8. The explanation of ''imported directly'' in paragraph (c) follows the text used in § 10.193 of the CBI implementing regulations (19 CFR 10.193) but incorporates editorial changes to reflect a CBTPA context.

Section 10.224 prescribes the use of a Certificate of Origin and thus reflects the regulatory mandate contained in paragraph (4)(A)(i) of the statute. Paragraph (a) of the regulatory text contains a general statement regarding the purpose and preparation of the Certificate of Origin and is based in part on § 181.11 of the implementing NAFTA regulations (19 CFR 181.11). Paragraph (b) sets forth the form for the Certificate of Origin, which is directed toward the specific groups of articles described under paragraph (2)(A) of the statute and thus bears no substantive relationship to the Certificate of Origin used under the NAFTA (which involves different country of origin standards for preferential duty treatment). Paragraph (c) sets forth instructions for preparation of this Certificate of Origin. It should be noted that the Certificate of Origin prescribed under this section has no effect on the textile declaration prescribed under § 12.130 of the Customs Regulations (19 CFR 12.130) which still must be submitted to Customs in accordance with that section even in the case of textile products that are entitled to preferential treatment under the CBTPA program.

Section 10.225 sets forth the procedures for filing a claim for preferential treatment. Consistent with the mandate in paragraph (4)(A)(i) of the statute for procedures ''similar in all material respects to the requirements of Article 502(1) of the NAFTA,'' this regulatory text is based on the NAFTA regulatory text contained in 19 CFR

181.21, but includes appropriate changes to conform to the current context. However, contrary to the NAFTA regulatory text, paragraph (a) of § 10.225 does not allow for a declaration based on a copy of an original Certificate of Origin.

Section 10.226 concerns the maintenance of records and submission of the Certificate of Origin by the importer and follows the NAFTA regulatory text contained in 19 CFR 181.22 but, again, with appropriate changes to conform to the current context. The following points are noted regarding the regulatory text:

1. In paragraph (a) which concerns the maintenance of records, specific reference is made to ''the provisions of part 163'' which sets forth the basic Customs recordkeeping requirements that apply to importers and other persons involved in customs transactions. The effect is the same as that under the NAFTA § 181.22 text.

2. Paragraph (b) concerns submission of the Certificate of Origin to Customs and thus also relates directly to a requirement contained in Article 502(1) of the NAFTA. The text is based on the NAFTA regulatory text contained in 19 CFR 181.22(b) but differs from the NAFTA text by not specifying a 4-year period for acceptance of the Certificate by Customs, because that 4-year period is only relevant in a NAFTA context.

3. Paragraph (c) concerns the correction of defective Certificates of Origin and the nonacceptance of blanket Certificates in certain circumstances. The text is based on the NAFTA regulatory text contained in 19 CFR 181.22(c) but is simplified and does not include any reference to NAFTA-type origin verifications which do not apply for CBTPA purposes.

4. Paragraph (d) sets forth the circumstances in which a Certificate of Origin is not required. Consistent with the terms of paragraph (4)(B) of the statute, this regulatory text follows the terms of Article 503 of the NAFTA and the NAFTA regulatory text contained in 19 CFR 181.22(d).

Finally, section 10.227 concerns the verification and justification of claims for preferential treatment. Paragraph (a) concerns the verification of claims by Customs and paragraph (b) prescribes steps that a U.S. importer should take in order to support a claim for preferential treatment. Although paragraph (a) is derived from provisions contained in the GSP regulations (19 CFR 10.173(c)) and in the CBI regulations (19 CFR 10.198(c)), the text expands on the GSP/CBI approach in the following respects:

1. In paragraph (a)(1), specific reference is made to the review of import-related documents required to be made, kept, and made available by importers and other persons under Part 163 of the regulations.

2. Paragraph (a)(2) sets forth examples of documents and information relating to production in a CBTPA beneficiary country that Customs may need to review for purposes of verifying a claim for preferential treatment.

3. Finally, paragraph (a)(3) refers to evidence in a CBTPA beneficiary country to document the use of U.S. materials in an article produced in the CBTPA beneficiary country, because the presence of U.S. materials is a key element for many of the articles to which preferential treatment applies under the CBTPA. Accordingly, U.S. importers must be aware of the fact that their ability to successfully claim preferential treatment on their imports may be a function of the nature of the records maintained by the CBTPA beneficiary country producer not only with regard to the production process but also with regard to the source of the materials used in that production.

New §§ 10.231 Through 10.237

These new sections are intended to implement those non-textile preferential tariff treatment provisions within paragraphs (3), (4) and (5) of amended section 213(b) of the CBI statute that relate to U.S. import procedures and thus are appropriate for treatment in the Customs Regulations. In view of the similarities between paragraphs (2) and (3) under the statute, in particular as regards the use of a Certificate of Origin and related Customs procedures, the structure and content of new §§ 10.231 through 10.237 are based on the structure and content used in this document for the textile provisions of new §§ 10.221 through 10.227, but with appropriate changes or variations to reflect the paragraph (3) statutory context. The following particular points are noted regarding the texts of new §§ 10.231 through 10.237:

1. The term ''preferential tariff treatment'' is used throughout (rather than ''preferential treatment'') in order to reflect the use of the word ''tariff'' as a modifier of ''treatment'' in paragraph (3) of the statute. The definition of this term in § 10.232 is based primarily on paragraph (3)(A)(i) of the statute.

2. The definition of ''CBTPA originating good'' in § 10.232 reflects the terms of paragraph (5)(C)(i) of the statute but refers specifically to provisions within the HTSUS and the NAFTA regulations to clarify the meaning of the reference in the statute to Chapter 4 of the NAFTA ''as implemented pursuant to United States law.''

3. In § 10.233(a) which identifies the articles eligible for preferential tariff treatment under paragraph (3) of the statute, an ''imported directly'' requirement has been included for the same reason stated above in regard to new § 10.223. The remainder of § 10.233(a) reflects the terms of paragraphs (3)(A)(i) and (ii) of the statute.

4. Section 10.233(b) sets forth standards for applying the NAFTA rules of origin for purposes of determining whether an article qualifies as a CBTPA originating good. The regulatory text follows paragraph (5)(C)(ii) of the statute.

5. Section 10.233(c) concerns leather-related goods to which duty reductions apply under section 213(h) of the CBERA and specifically reflects the terms of paragraph (3)(B) of the statute regarding application of the lower rate of duty.

6. Section 10.234 sets forth the basic NAFTA Certificate of Origin requirement. In view of the applicability of the NAFTA rules of origin in this context, Customs has determined that the appropriate procedure would be to use a modified version of the separate Customs Form used for the NAFTA. Accordingly, the § 10.234 text is considerably shorter than the text of new § 10.224 because it does not contain the text of the Certificate and the instructions for its completion.

Appendix to Part 163

Finally, this document amends Part 163 of the Customs Regulations (19 CFR Part 163) by adding to the list of entry records in the Appendix (the interim ''(a)(1)(A) list'') references to the CBTPA Textile Certificate of Origin and supporting documentation prescribed under new § 10.226 and to the CBTPA Non-textile Certificate of Origin and supporting documentation prescribed under new § 10.236.

Comments

Before adopting these interim regulations as a final rule, consideration will be given to any written comments timely submitted to Customs, including comments on the clarity of this interim rule and how it may be made easier to understand. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations Branch, Office of Regulations and Rulings, U.S. Customs

Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, DC.

Inapplicability of Notice and Delayed Effective Date Requirements and the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 553(b)(B), Customs has determined that prior public notice and comment procedures on these regulations are unnecessary and contrary to the public interest. The regulatory changes provide trade benefits to the importing public, in some cases implement direct statutory mandates, and are necessary to carry out the preferential treatment proclaimed by the President under the United States-Caribbean Basin Trade Partnership Act. For the same reasons, pursuant to the provisions of 5 U.S.C. 553(d)(1) and (3), Customs finds that there is good cause for dispensing with a delayed effective date. Because no notice of proposed rulemaking is required for interim regulations, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) do not apply.

Executive Order 12866

This document does not meet the criteria for a ''significant regulatory action'' as specified in E.O. 12866.

Paperwork Reduction Act

This regulation is being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collection of information contained in this regulation has been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1515–0226.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

The collection of information in these interim regulations is in §§ 10.224, 10.225, 10.226, 10.234, 10.235, and 10.236. This information conforms to requirements in 19 U.S.C. 2703 and is used by Customs to determine whether textile and apparel articles and other products imported from designated beneficiary countries are entitled to duty-free entry under the United States-Caribbean Basin Trade Partnership Act. The likely respondents are business organizations including importers, exporters, and manufacturers.

Estimated annual reporting and/or recordkeeping burden: 18,720 hours.

Estimated average annual burden per respondent/recordkeeper: 440 hours.

Estimated number of respondents and/or recordkeepers: 42.

Estimated annual frequency of responses: on occasion.

Comments on the collection of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor, Washington, DC 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the interim regulations.

Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Drafting Information

The principal author of this document was Francis W. Foote, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects

19 CFR Part 10

Assembly, Bonds, Caribbean Basin Initiative, Customs duties and inspection, Exports, Imports, Preference programs, Reporting and recordkeeping requirements, Trade agreements.

19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Imports, Reporting and recordkeeping requirements.

Amendments to the Regulations

For the reasons set forth in the preamble, Parts 10 and 163, Customs Regulations (19 CFR Parts 10 and 163), are amended as set forth below.

PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

1. The general authority citation for Part 10 continues to read, the specific authority citation for §§ 10.191 through 10.198 is revised to read, and a new specific authority citation for §§ 10.221 through 10.227 and §§ 10.231 through 10.237 is added to read, as follows:

Authority: 19 U.S.C. 66, 1202 (General Note 22, Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

* * * * *

Sections 10.191 through 10.198b also issued under 19 U.S.C. 2701 *et seq.*;

* * * * *

Sections 10.221 through 10.227 and §§ 10.231 through 10.237 also issued under 19 U.S.C. 2701 *et seq.*;

* * * * *

2. The authority citation under the center heading ''CARIBBEAN BASIN INITIATIVE'' is removed.

3. In § 10.191:

a. Paragraph (b)(1) is amended by removing the reference ''§ 10.198'' and adding, in its place, the reference ''§ 10.198b'';

b. In the introductory text of paragraph (b)(2), the first sentence is amended by adding at the end before the period the words ''or in § 10.198b'';

c. Paragraphs (b)(2)(i) and (b)(2)(ii) are revised;

d. Paragraph (b)(2)(iv) is amended by removing the reference ''Chapter 27'' and adding in its place the reference ''headings 2709 and 2710'';

e. Paragraphs (b)(2)(vi) through (b)(2)(viii) are redesignated as paragraphs (b)(2)(vii) through (b)(2)(ix)

f. A new paragraph (b)(2)(vi) is added;

g. Paragraph (b)(3) is amended by removing the reference ''§ 10.198'' and adding, in its place, the reference ''§ 10.198a''; and

h. Paragraph (b)(4) is amended by removing the reference ''§ 10.198'' and adding, in its place, the reference ''§ 10.198b''.

The revisions and addition read as follows:

§ 10.191 General.

* * * * *

(b) * * *

(2) * * *

(i) Textile and apparel articles which were not eligible articles for purposes of the CBI on January 1, 1994, as the CBI was in effect on that date.

(ii) Footwear not designated on August 5, 1983, as eligible articles for the purpose of the Generalized System of Preferences under Title V, Trade Act

of 1974, as amended (19 U.S.C. 2461 through 2467).

* * * * *

(vi) Articles to which reduced rates of duty apply under § 10.198a.

* * * * *

4. In § 10.192, the first sentence is amended by removing the reference ''§ 10.198'' and adding, in its place, the reference ''§ 10.198b''.

5. In § 10.193, the introductory text is amended by removing the reference § 10.198'' and adding, in its place, the reference ''§ 10.198b''.

6. In § 10.195, paragraph (b) is revised to read as follows:

§ 10.195 Country of origin criteria.

* * * * *

(b) *Commonwealth of Puerto Rico and U.S. Virgin Islands*—(1) *General.* For purposes of determining the percentage referred to in paragraph (a) of this section, the term ''beneficiary country'' includes the Commonwealth of Puerto Rico and the U.S. Virgin Islands. Any cost or value of materials or direct costs of processing operations attributable to the U.S. Virgin Islands must be included in the article prior to its final exportation from a beneficiary country to the United States.

(2) *Manufacture in the Commonwealth of Puerto Rico after final exportation.* Notwithstanding the provisions of 19 U.S.C. 1311, if an article from a beneficiary country is entered under bond for processing or use in manufacturing in the Commonwealth of Puerto Rico, no duty will be imposed on the withdrawal from warehouse for consumption of the product of that processing or manufacturing provided that:

(i) The article entered in the warehouse in the Commonwealth of Puerto Rico was grown, produced, or manufactured in a beneficiary country within the meaning of paragraph (a) of this section and was imported directly from a beneficiary country within the meaning of § 10.193; and

(ii) At the time of its withdrawal from the warehouse, the product of the processing or manufacturing in the Commonwealth of Puerto Rico meets the 35 percent value-content requirement prescribed in paragraph (a) of this section.

* * * * *

7. New §§ 10.198a and 10.198b are added under the center heading ''CARIBBEAN BASIN INITIATIVE'' to read as follows:

§ 10.198a Duty reduction for certain leather-related articles.

Except as otherwise provided in § 10.233, reduced rates of duty as proclaimed by the President will apply to handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461 through 2467), provided that the article in question at the time it is entered:

(a) Was grown, produced, or manufactured in a beneficiary country within the meaning of § 10.195;

(b) Meets the 35 percent value-content requirement prescribed in § 10.195; and

(c) Was imported directly from a beneficiary country within the meaning of § 10.193.

§ 10.198b Products of Puerto Rico processed in a beneficiary country.

Except in the case of any article described in § 10.191(b)(2)(i) through (vi), the duty-free treatment provided for under the CBI will apply to an article that is the growth, product, or manufacture of the Commonwealth of Puerto Rico and that is by any means advanced in value or improved in condition in a beneficiary country, provided that:

(a) If any materials are added to the article in the beneficiary country, those materials consist only of materials that are a product of a beneficiary country or the United States; and

(b) The article is imported directly from the beneficiary country into the customs territory of the United States within the meaning of § 10.193.

8. Part 10 is amended by adding a new center heading followed by new §§ 10.221 through 10.227 to read as follows:

Textile and Apparel Articles Under the United States-Caribbean Basin Trade Partnership Act

Sec.

Textile and Apparel Articles Under the United States-Caribbean Basin Trade Partnership Act

§ 10.221 Applicability.

Title II of Public Law 106–200 (114 Stat. 251), entitled the United States-Caribbean Trade Partnership Act (CBTPA), amended section 213(b) of the Caribbean Basin Economic Recovery Act (the CBERA, 19 U.S.C. 2701–2707) to authorize the President to extend additional trade benefits to countries that have been designated as beneficiary countries under the CBERA. Section 213(b)(2) of the CBERA (19 U.S.C. 2703(b)(2)) provides for the preferential treatment of certain textile and apparel articles from CBERA beneficiary countries. The provisions of §§ 10.221–10.227 of this part set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment pursuant to CBERA section 213(b)(2).

§ 10.222 Definitions.

When used in §§ 10.221 through 10.227, the following terms have the meanings indicated:

Apparel articles. ''Apparel articles'' means goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6503, and 6504 and subheadings 6406.99 and 6505.90 of the HTSUS.

Assembled in one or more CBTPA beneficiary countries. ''Assembled in one or more CBTPA beneficiary countries'' when used in the context of a textile or apparel article has reference to a joining together of two or more components (other than thread, decorative embellishments, buttons, zippers, or similar components) that occurred in one or more beneficiary countries, whether or not a prior joining operation was performed on the article or any of its components in the United States.

CBERA. ''CBERA'' means the Caribbean Basin Economic Recovery Act, 19 U.S.C. 2701–2707.

CBTPA beneficiary country. ''CBTPA beneficiary country'' means a beneficiary country'' as defined in § 10.191(b)(1) for purposes of the CBERA which the President also has designated as a beneficiary country for purposes of preferential treatment of textile and apparel articles under 19 U.S.C. 2703(b)(2).

Cut in one or more CBTPA beneficiary countries. ''Cut in one or more CBTPA beneficiary countries'' when used with reference to apparel articles means that all fabric components used in the assembly of the article were cut from fabric in one or more CBTPA beneficiary countries.

Foreign. ''Foreign'' means of a country other than the United States or a CBTPA beneficiary country.

HTSUS. ''HTSUS'' means the Harmonized Tariff Schedule of the United States.

Knit-to-shape. The term ''knit-to-shape'' applies to any apparel article of which 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the apparel article, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether an apparel article is ''knit-to-shape.''

Made in one or more CBTPA beneficiary countries. ''Made in one or more CBTPA beneficiary countries'' when used with reference to non-underwear t-shirts means cut in one or more CBTPA beneficiary countries and wholly assembled in one or more CBTPA beneficiary countries.

Major parts. ''Major parts'' means integral components of an apparel article but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts or components.

NAFTA. ''NAFTA'' means the North American Free Trade Agreement entered into by the United States, Canada, and Mexico on December 17, 1992.

Preferential treatment. ''Preferential treatment'' means entry, or withdrawal from warehouse for consumption, in the customs territory of the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels as provided in 19 U.S.C. 2703(b)(2).

Wholly assembled in one or more CBTPA beneficiary countries. ''Wholly assembled in one or more CBTPA beneficiary countries'' when used in the context of a textile or apparel article has reference to a joining together of all components (including thread, decorative embellishments, buttons, zippers, or similar components) that occurred only in one or more CBTPA beneficiary countries.

Wholly formed. ''Wholly formed,'' when used with reference to yarns or thread, means that all of the production processes, starting with the extrusion of filament or the spinning of all fibers into yarn or both and ending with a yarn or plied yarn, took place in a single country, and, when used with reference to fabric(s), means that all of the production processes, starting with polymers, fibers, filaments, textile strips, yarns, twine, cordage, rope, or strips of fabric and ending with a fabric by a weaving, knitting, needling, tufting, felting, entangling or other process, took place in a single country.

§ 10.223 Articles eligible for preferential treatment.

(a) *General.* The preferential treatment referred to in § 10.221 applies to the following textile and apparel articles that are imported directly into the customs territory of the United States from a CBTPA beneficiary country:

(1) Apparel articles assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under subheading 9802.00.80 of the HTSUS;

(2) Apparel articles assembled in one or more CBTPA beneficiary countries from fabrics wholly formed and cut in the United States, from yarns wholly formed in the United States, (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed and cut in the United States) that are entered under Chapter 61 or 62 of the HTSUS, if, after that assembly, the articles would have qualified for entry under subheading 9802.00.80 of the HTSUS but for the fact that the articles were embroidered or subjected to stone-washing, enzyme-washing, acid washing, perma-pressing, oven-baking, bleaching, garment-dyeing, screen printing, or other similar processes in a CBTPA beneficiary country;

(3) Apparel articles (other than articles described in paragraph (a)(12) of this section) cut in one or more CBTPA beneficiary countries from fabric wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States), if those articles are assembled in one or more CBTPA beneficiary countries with thread formed in the United States;

(4) Apparel articles knit to shape (other than socks provided for in heading 6115 of the HTSUS) in a CBTPA beneficiary country from yarns wholly formed in the United States, and knit apparel articles (other than non-underwear t-shirts) cut and wholly assembled in one or more CBTPA beneficiary countries from fabric formed in one or more CBTPA beneficiary countries or the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed in one or more CBTPA beneficiary countries);

(5) Non-underwear t-shirts, classifiable under subheadings 6109.10.00 and 6109.90.10 of the HTSUS, made in one or more CBTPA beneficiary countries from fabric formed in one or more CBTPA beneficiary countries from yarns wholly formed in the United States;

(6) Brassieres classifiable under subheading 6212.10 of the HTSUS, cut and sewn or otherwise assembled in the United States, or one or more CBTPA beneficiary countries, or both;

(7) Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries, from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries, to the extent that apparel articles of those fabrics or yarn would be eligible for preferential treatment, without regard to the source of the fabrics or yarn, under Annex 401 of the NAFTA;

(8) Apparel articles that are both cut (or knit-to-shape) and sewn or otherwise assembled in one or more CBTPA beneficiary countries, from fabrics or yarn that is not formed in the United States or in one or more CBTPA beneficiary countries and that is not described in paragraph (a)(7) of this section, to the extent that the President has determined that the fabrics or yarn cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed the preferential treatment provided under paragraph (a)(7) of this section;

(9) A handloomed, handmade, or folklore textile or apparel article of a CBTPA beneficiary country that the President and representatives of the CBTPA beneficiary country mutually agree is a handloomed, handmade, or folklore article and that is certified as a handloomed, handmade, or folklore article by the competent authority of the CBTPA beneficiary country;

(10) Textile luggage assembled in a CBTPA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTSUS;

(11) Textile luggage assembled from fabric cut in a CBTPA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States; and

(12) Knitted or crocheted apparel articles (other than non-underwear t-

shirts described in paragraph (a)(5) of this section) cut and wholly assembled in one or more CBTPA beneficiary countries or the United States from fabrics wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are wholly formed in the United States), provided that the assembly is with thread formed in the United States.

(b) *Special rules for certain component materials*—(1) *Foreign findings, trimmings, interlinings, fibers and yarns*—(i) *General.* An article otherwise described under paragraph (a) of this section will not be ineligible for the preferential treatment referred to in § 10.221 because the article contains:

(A) Findings and trimmings of foreign origin, if the value of those findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article. For purposes of this section ''findings and trimmings'' include, but are not limited to, hooks and eyes, snaps, buttons, ''bow buds,'' decorative lace trim, elastic strips (but only if they are each less than 1 inch in width and are used in the production of brassieres), zippers (including zipper tapes), labels, and sewing thread except in the case of an article described in paragraph (a)(3) of this section;

(B) Interlinings of foreign origin, if the value of those interlinings does not exceed 25 percent of the cost of the components of the assembled article. For purposes of this section ''interlinings'' include only a chest type plate, a ''hymo'' piece, or ''sleeve header,'' of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments;

(C) Any combination of findings and trimmings of foreign origin and interlinings of foreign origin, if the total value of those findings and trimmings and interlinings does not exceed 25 percent of the cost of the components of the assembled article; or

(D) Fibers or yarns not wholly formed in the United States or in one or more CBTPA beneficiary countries if the total weight of all those fibers and yarns is not more than 7 percent of the total weight of the article, except in the case of any apparel article described in paragraph (a)(1) through (a)(5) of this section containing elastomeric yarns which will be eligible for preferential treatment only if those yarns are wholly formed in the United States.

(ii) *Treatment of fibers and yarns as findings or trimmings.* If any fibers or yarns not wholly formed in the United States or one or more beneficiary countries are used in an article as a finding or trimming described in paragraph (b)(1)(i)(A) of this section, the fibers or yarns will be considered to be a finding or trimming for purposes of paragraph (b)(1)(i) of this section.

(2) *Special rule for nylon filament yarn.* An article otherwise described under paragraph (a)(1), (a)(2) or (a)(3) of this section will not be ineligible for the preferential treatment referred to in § 10.221 because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00, or 5402.61.00 of the HTSUS duty-free from Canada, Mexico or Israel.

(c) *Imported directly defined.* For purposes of paragraph (a) of this section, the words ''imported directly'' mean:

(1) Direct shipment from any CBTPA beneficiary country to the United States without passing through the territory of any country that is not a CBTPA beneficiary country;

(2) If the shipment is from any CBTPA beneficiary country to the United States through the territory of any country that is not a CBTPA beneficiary country, the articles in the shipment do not enter into the commerce of any country that is not a CBTPA beneficiary country while en route to the United States and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If the shipment is from any CBTPA beneficiary country to the United States through the territory of any country that is not a CBTPA beneficiary country, and the invoices and other documents do not show the United States as the final destination, the articles in the shipment upon arrival in the United States are imported directly only if they:

(i) Remained under the control of the customs authority of the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Were not subjected to operations other than loading or unloading, and other activities necessary to preserve the articles in good condition.

§ 10.224 Certificate of Origin.

(a) *General.* A Certificate of Origin must be employed to certify that a textile or apparel article being exported from a CBTPA beneficiary country to the United States qualifies for the preferential treatment referred to in § 10.221. The Certificate of Origin must be prepared by the exporter in the CBTPA beneficiary country in the form specified in paragraph (b) of this section. Where the CBTPA beneficiary country exporter is not the producer of the article, that exporter may complete and sign a Certificate of Origin on the basis of:

(1) Its reasonable reliance on the producer's written representation that the article qualifies for preferential treatment; or

(2) A completed and signed Certificate of Origin for the article voluntarily provided to the exporter by the producer.

(b) *Form of Certificate.* The Certificate of Origin referred to in paragraph (a) of this section must be in the following format:

BILLING CODE 4820–02–P

Caribbean Basin Trade Partnership Act
Textile Certificate of Origin

1. Exporter Name & Address		2. Producer Name & Address
3. Importer Name & Address		6.U.S./Caribbean Fabric Producer Name & Address
4. Description of Article	5. Preference Group	7. U.S./Caribbean Yarn Producer Name & Address
		8. U.S. Thread Producer Name & Address
		9. Name of Handloomed, Handmade, or Folklore Article
10. Name of Preference Group G Fabric or Yarn:		

Preference Groups:

A: Apparel assembled from U.S.-formed and cut fabric from U.S. yarn [19 CFR 10.223(a)(1)].

B: Apparel assembled and further processed from U.S.-formed and cut fabric from U.S. yarn [19 CFR 10.223(a)(2)].

C: Non-knit apparel cut and assembled from U.S. fabric from U.S. yarn and thread. [19 CFR 10.223(a)(3)].

D: Apparel knit to shape from U.S. yarn and knit apparel cut and assembled from regional or U.S. fabric from U.S. yarn [19 CFR 10.223(a)(4)].

E: Non-underwear t-shirts made of regional fabric from U.S. yarn [19 CFR 10.223(a)(5)].

F: Brassieres cut and assembled in the United States and/or one or more CBTPA beneficiary countries [19 CFR 10.223(a)(6)].

G: Apparel cut and assembled in one or more CBTPA beneficiary countries from fabrics or yarn not formed in the United States or one or more CBTPA beneficiary countries (as identified in NAFTA) or designated as not available in commercial quantities in the United States [19 CFR 10.223(a)(7) or (a)(8)].

H: Handloomed, handmade, or folklore articles [19 CFR 10.223(a)(9)].

I: Luggage assembled from U.S.-formed and cut fabric from U.S. yarn. [19 CFR 10.223(a)(10)].

J: Luggage cut and assembled from U.S. fabric from U.S. yarn [19 CFR 10.223(a)(11)].

K: Knitted or crocheted apparel cut and assembled from U.S. fabric from U.S. yarn and thread. [19 CFR 10.223(a)(12)].

I certify that the information on this document is complete and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document.

I agree to maintain, and present upon request, documentation necessary to support this certificate.

12. Authorized Signature		13. Company
14. Name (Print or Type)		15. Title
16a.Date(DD/MM/YY)	16b.Blanket Period From: To:	17. Telephone Number Facsimile Number

BILLING CODE 4820–02–P

(c) *Preparation of Certificate.* The following rules will apply for purposes of completing the Certificate of Origin set forth in paragraph (b) of this section:

(1) Blocks 1 through 5 pertain only to the final article exported to the United States for which preferential treatment may be claimed;

(2) Block 1 should state the legal name and address (including country) of the exporter;

(3) Block 2 should state the legal name and address (including country) of the producer. If there is more than one producer, attach a list stating the legal name and address (including country) of all additional producers. If this information is confidential, it is acceptable to state ''available to Customs upon request'' in block 2. If the

producer and the exporter are the same, state ''same'' in block 2;

(4) Block 3 should state the legal name and address (including country) of the importer;

(5) Block 4 should provide a full description of each article. The description should be sufficient to relate it to the invoice description and to the description of the article in the international Harmonized System. Include the invoice number as shown on the commercial invoice or, if the invoice number is not known, include another unique reference number such as the shipping order number;

(6) In block 5, insert the letter that designates the preference group which applies to the article according to the description contained in the CFR provision cited on the Certificate for that group;

(7) Blocks 6 through 10 must be completed only when the block in question calls for information that is relevant to the preference group identified in block 5;

(8) Block 6 should state the legal name and address (including country) of the fabric producer;

(9) Block 7 should state the legal name and address (including country) of the yarn producer;

(10) Block 8 should state the legal name and address (including country) of the thread producer;

(11) Block 9 should state the name of the folklore article or should state that the article is handloomed or handmade;

(12) Block 10, which should be completed only when preference group ''G'' is inserted in block 5, should state the name of the fabric or yarn that is not formed in the United States or a CBTPA beneficiary country or that is not available in commercial quantities in the United States;

(13) Block 16a should reflect the date on which the Certificate was completed and signed;

(14) Block 16b should be completed if the Certificate is intended to cover multiple shipments of identical articles as described in block 4 that are imported into the United States during a specified period of up to one year (see § 10.226(b)(4)(ii)). The ''from'' date is the date on which the Certificate became applicable to the article covered by the blanket Certificate (this date may be prior to the date reflected in block 16a). The ''to'' date is the date on which the blanket period expires; and

(15) The Certificate may be printed and reproduced locally. If more space is needed to complete the Certificate, attach a continuation sheet.

§ 10.225 Filing of claim for preferential treatment.

(a) *Declaration.* In connection with a claim for preferential treatment for a textile or apparel article described in § 10.223, the importer must make a written declaration that the article qualifies for that treatment. In the case of an article described in § 10.223(a)(1) or (a)(10), the written declaration should be made by including on the entry summary, or equivalent documentation, the symbol ''R'' as a prefix to the subheading within Chapter 98 of the HTSUS under which the article is classified, and, in the case of any article described in § 10.223(a)(2) through (a)(9) and (a)(11), the inclusion on the entry summary, or equivalent documentation, of the subheading within Chapter 98 of the HTSUS under which the article is classified will constitute the written declaration. Except in any of the circumstances described in § 10.226(d)(1), the declaration required under this paragraph must be based on an original Certificate of Origin that has been completed and properly executed in accordance with § 10.224, that covers the article being imported, and that is in the possession of the importer.

(b) *Corrected declaration.* If, after making the declaration required under paragraph (a) of this section, the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct, the importer must within 30 calendar days after the date of discovery of the error make a corrected declaration and pay any duties that may be due. A corrected declaration will be effected by submission of a letter or other written statement to the Customs port where the declaration was originally filed.

§ 10.226 Maintenance of records and submission of Certificate by importer.

(a) *Maintenance of records.* Each importer claiming preferential treatment for an article under § 10.225 must maintain in the United States, in accordance with the provisions of part 163 of this chapter, all records relating to the importation of the article. Those records must include the original Certificate of Origin referred to in § 10.225(a) and any other relevant documents or other records as specified in § 163.1(a) of this chapter.

(b) *Submission of Certificate.* An importer who claims preferential treatment on a textile or apparel article under § 10.225(a) must provide, at the request of the port director, a copy of the Certificate of Origin pertaining to the article. A Certificate of Origin submitted to Customs under this paragraph:

(1) Must be in writing or must be transmitted electronically pursuant to any electronic data interchange system authorized by Customs for that purpose;

(2) Must be signed by the exporter or by the exporter's authorized agent having knowledge of the relevant facts;

(3) Must be completed either in the English language or in the language of the country from which the article is exported. If the Certificate is completed in a language other than English, the importer must provide to Customs upon request a written English translation of the Certificate; and

(4) May be applicable to:

(i) A single importation of an article into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(ii) Multiple importations of identical articles into the United States that occur within a specified blanket period, not to exceed 12 months, set out in the Certificate by the exporter. For purposes of this paragraph and § 10.224(c)(14), ''identical articles'' means articles that are the same in all material respects, including physical characteristics, quality, and reputation.

(c) *Correction and nonacceptance of Certificate.* If the port director determines that a Certificate of Origin is illegible or defective or has not been completed in accordance with paragraph (b) of this section, the importer will be given a period of not less than five working days to submit a corrected Certificate. A Certificate will not be accepted in connection with subsequent importations during a period referred to in paragraph (b)(4)(ii) of this section if the port director determined that a previously imported identical article covered by the Certificate did not qualify for preferential treatment.

(d) *Certificate not required*—(1) *General.* Except as otherwise provided in paragraph (d)(2) of this section, an importer is not required to have a Certificate of Origin in his possession for:

(i) An importation of an article for which the port director has in writing waived the requirement for a Certificate of Origin because the port director is otherwise satisfied that the article qualifies for preferential treatment;

(ii) A non-commercial importation of an article; or

(iii) A commercial importation of an article whose value does not exceed US $2,500, provided that, unless waived by the port director, the producer, exporter,

importer or authorized agent includes on, or attaches to, the invoice or other document accompanying the shipment the following signed statement:

I hereby certify that the article covered by this shipment qualifies for preferential treatment under the CBTPA.

Check One:

( ) Producer
( ) Exporter
( ) Importer
( ) Agent

Name

Title

Address

Signature and Date

(2) *Exception.* If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§ 10.224 through 10.226, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential treatment. The importer will have 30 calendar days from the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential treatment. For purposes of this paragraph, a ''series of importations'' means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.

§ 10.227 Verification and justification of claim for preferential treatment.

(a) *Verification by Customs.* A claim for preferential treatment made under § 10.225, including any statements or other information contained on a Certificate of Origin submitted to Customs under § 10.226, will be subject to whatever verification the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, the port director may deny the claim for preferential treatment. A verification of a claim for preferential treatment may involve, but need not be limited to, a review of:

(1) All records required to be made, kept, and made available to Customs by the importer or any other person under part 163 of this chapter;

(2) Documentation and other information in a CBTPA beneficiary country regarding the country of origin of an article and its constituent materials, including, but not limited to, production records, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production; and

(3) Evidence in a CBTPA beneficiary country to document the use of U.S. materials in the production of the article in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and clearance documents.

(b) *Importer requirements.* In order to make a claim for preferential treatment under § 10.225, the importer:

(1) Must have records that explain how the importer came to the conclusion that the textile or apparel article qualifies for preferential treatment. Those records must include documents that support a claim that the article in question qualifies for preferential treatment because it is specifically described in one of the provisions under § 10.223(a). If the importer is claiming that the article incorporates fabric or yarn that was wholly formed in the United States, the importer must have records that identify the U.S. producer of the fabric or yarn. A properly completed Certificate of Origin in the form set forth in § 10.224(b) is a record that would serve these purposes;

(2) Must establish and implement internal controls which provide for the periodic review of the accuracy of the Certificates of Origin or other records referred to in paragraph (b)(1) of this section;

(3) Must have shipping papers that show how the article moved from the CBTPA beneficiary country to the United States. If the imported article was shipped through a country other than a CBTPA beneficiary country and the invoices and other documents from the CBTPA beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in § 10.223(c)(3)(i) through (iii) were met; and

(4) Must be prepared to explain, upon request from Customs, how the records and internal controls referred to in paragraphs (b)(1) through (b)(3) of this section justify the importer's claim for preferential treatment.

9. Part 10 is amended by adding a new center heading followed by new §§ 10.231 through 10.237 to read as follows:

Non-Textile Articles Under the United States-Caribbean Basin Trade Partnership Act

Sec.

Non-Textile Articles Under the United States-Caribbean Basin Trade Partnership Act

§ 10.231 Applicability.

Title II of Public Law 106–200 (114 Stat. 251), entitled the United States-Caribbean Trade Partnership Act (CBTPA), amended section 213(b) of the Caribbean Basin Economic Recovery Act (the CBERA, 19 U.S.C. 2701–2707) to authorize the President to extend additional trade benefits to countries that have been designated as beneficiary countries under the CBERA. Section 213(b)(3) of the CBERA (19 U.S.C. 2703(b)(3)) provides for special preferential tariff treatment of certain non-textile articles that are otherwise excluded from duty-free treatment under the CBERA. The provisions of §§ 10.231–10.237 of this part set forth the legal requirements and procedures that apply for purposes of obtaining preferential tariff treatment pursuant to CBERA section 213(b)(3).

§ 10.232 Definitions.

When used in §§ 10.231 through 10.237, the following terms have the meanings indicated:

CBERA. ''CBERA'' means the Caribbean Basin Economic Recovery Act, 19 U.S.C. 2701–2707.

CBTPA beneficiary country. ''CBTPA beneficiary country'' means a beneficiary country'' as defined in § 10.191(b)(1) for purposes of the CBERA which the President also has designated as a beneficiary country for purposes of preferential duty treatment of articles under 19 U.S.C. 2703(b)(3).

CBTPA originating good. ''CBTPA originating good'' means a good that meets the rules of origin for a good as set forth in General Note 12, HTSUS, and in the appendix to part 181 of this chapter and as applied under § 10.233(b).

HTSUS. ''HTSUS'' means the Harmonized Tariff Schedule of the United States.

NAFTA. ''NAFTA'' means the North American Free Trade Agreement

entered into by the United States, Canada, and Mexico on December 17, 1992.

Preferential tariff treatment. ''Preferential tariff treatment'' when used with reference to an imported article means entry, or withdrawal from warehouse for consumption, in the customs territory of the United States with duty and other tariff treatment that is identical to the tariff treatment that would be accorded at that time under Annex 302.2 of the NAFTA to an imported article described in the same 8-digit subheading of the HTSUS that is a good of Mexico.

§ 10.233 Articles eligible for preferential tariff treatment.

(a) *General.* The preferential tariff treatment referred to in § 10.231 applies to any of the following articles, provided that the article in question is a CBTPA originating good, is imported directly into the customs territory of the United States from a CBTPA beneficiary country, and is not accorded duty-free treatment under U.S. Note 2(b), Subchapter II, Chapter 98, HTSUS (see § 10.26):

(1) Footwear not designated on August 5, 1983, as eligible articles for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461 through 2467);

(2) Tuna, prepared or preserved in any manner, in airtight containers;

(3) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710 of the HTSUS;

(4) Watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if those watches or watch parts contain any material which is the product of any country with respect to which HTSUS column 2 rates of duty apply; and

(5) Articles to which reduced rates of duty apply under § 10.198a, except as otherwise provided in paragraph (c) of this section.

(b) *Application of NAFTA rules of origin.* In determining whether an article is a CBTPA originating good for purposes of paragraph (a) of this section, application of the provisions of General Note 12 of the HTSUS and the appendix to part 181 of this chapter will be subject to the following rules:

(1) No country other than the United States and a CBTPA beneficiary country may be treated as being a party to the NAFTA;

(2) Any reference to trade between the United States and Mexico will be deemed to refer to trade between the United States and a CBTPA beneficiary country;

(3) Any reference to a party will be deemed to refer to a CBTPA beneficiary country or the United States; and

(4) Any reference to parties will be deemed to refer to any combination of CBTPA beneficiary countries or to the United States and one or more CBTPA beneficiary countries (or any combination involving the United States and CBTPA beneficiary countries).

(c) *Duty reductions for leather-related articles.* If, after it is determined that an article described in paragraph (a)(5) of this section qualifies as a CBTPA originating good and is eligible for preferential tariff treatment under this section, it is determined that the article in question also would otherwise qualify for a reduced rate of duty under § 10.198a and that reduced rate of duty is lower than the rate of duty that would apply under this section, that lower rate of duty will apply to the article for purposes of preferential tariff treatment under this section.

(d) *Imported directly defined.* For purposes of paragraph (a) of this section, the words ''imported directly'' mean:

(1) Direct shipment from any CBTPA beneficiary country to the United States without passing through the territory of any country that is not a CBTPA beneficiary country;

(2) If the shipment is from any CBTPA beneficiary country to the United States through the territory of any country that is not a CBTPA beneficiary country, the articles in the shipment do not enter into the commerce of any country that is not a CBTPA beneficiary country while en route to the United States and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If the shipment is from any CBTPA beneficiary country to the United States through the territory of any country that is not a CBTPA beneficiary country, and the invoices and other documents do not show the United States as the final destination, the articles in the shipment upon arrival in the United States are imported directly only if they:

(i) Remained under the control of the customs authority of the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Were not subjected to operations other than loading or unloading, and other activities necessary to preserve the articles in good condition.

§ 10.234 Certificate of Origin.

A Certificate of Origin as specified in § 10.236 must be employed to certify that an article described in § 10.233(a)(1) through (5) being exported from a CBTPA beneficiary country to the United States qualifies for the preferential tariff treatment referred to in § 10.231. The Certificate of Origin must be prepared by the exporter in the CBTPA beneficiary country. Where the CBTPA beneficiary country exporter is not the producer of the article, that exporter may complete and sign a Certificate of Origin on the basis of:

(a) Its reasonable reliance on the producer's written representation that the article qualifies for preferential tariff treatment; or

(b) A completed and signed Certificate of Origin for the article voluntarily provided to the exporter by the producer.

§ 10.235 Filing of claim for preferential tariff treatment.

(a) *Declaration.* In connection with a claim for preferential tariff treatment for an article described in § 10.233(a)(1) through (5), the importer must make a written declaration that the article qualifies for that treatment. The written declaration should be made by including on the entry summary, or equivalent documentation, the symbol ''R'' as a prefix to the subheading of the HTSUS under which the article in question is classified. Except in any of the circumstances described in § 10.236(d)(1), the declaration required under this paragraph must be based on a complete and properly executed original Certificate of Origin that covers the article being imported and that is in the possession of the importer.

(b) *Corrected declaration.* If, after making the declaration required under paragraph (a) of this section, the importer has reason to believe that a Certificate of Origin on which a declaration was based contains information that is not correct, the importer must within 30 calendar days after the date of discovery of the error make a corrected declaration and pay any duties that may be due. A corrected declaration will be effected by submission of a letter or other written statement to the Customs port where the declaration was originally filed.

§ 10.236 Maintenance of records and submission of Certificate by importer.

(a) *Maintenance of records.* Each importer claiming preferential tariff treatment for an article under § 10.235

must maintain in the United States, in accordance with the provisions of part 163 of this chapter, all records relating to the importation of the article. Those records must include the original Certificate of Origin referred to in § 10.235(a) and any other relevant documents or other records as specified in § 163.1(a) of this chapter.

(b) *Submission of Certificate.* An importer who claims preferential tariff treatment on an article under § 10.235(a) must provide, at the request of the port director, a copy of the Certificate of Origin pertaining to the article. A Certificate of Origin submitted to Customs under this paragraph:

(1) Must be on Customs Form 450, including privately-printed copies of that Form, or, as an alternative to Customs Form 450, in an approved computerized format or other medium or format as is approved by the Office of Field Operations, U.S. Customs Service, Washington, DC 20229. An alternative format must contain the same information and certification set forth on Customs Form 450;

(2) Must be signed by the exporter or by the exporter's authorized agent having knowledge of the relevant facts;

(3) Must be completed either in the English language or in the language of the country from which the article is exported. If the Certificate is completed in a language other than English, the importer must provide to Customs upon request a written English translation of the Certificate; and

(4) May be applicable to:

(i) A single importation of an article into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(ii) Multiple importations of identical articles into the United States that occur within a specified period, not to exceed 12 months, set out in the Certificate by the exporter.

(c) *Correction and nonacceptance of Certificate.* If the port director determines that a Certificate of Origin is illegible or defective or has not been completed in accordance with paragraph (b) of this section, the importer will be given a period of not less than five working days to submit a corrected Certificate. A Certificate will not be accepted in connection with subsequent importations during a period referred to in paragraph (b)(4)(ii) of this section if the port director determined that a previously imported identical article covered by the Certificate did not qualify for preferential treatment.

(d) *Certificate not required*—(1) *General.* Except as otherwise provided in paragraph (d)(2) of this section, an importer is not required to have a Certificate of Origin in his possession for:

(i) An importation of an article for which the port director has in writing waived the requirement for a Certificate of Origin because the port director is otherwise satisfied that the article qualifies for preferential tariff treatment;

(ii) A non-commercial importation of an article; or

(iii) A commercial importation of an article whose value does not exceed US$2,500, provided that, unless waived by the port director, the producer, exporter, importer or authorized agent includes on, or attaches to, the invoice or other document accompanying the shipment the following signed statement:

I hereby certify that the article covered by this shipment qualifies for preferential tariff treatment under the CBTPA.

Check One:
( ) Producer
( ) Exporter
( ) Importer
( ) Agent

Name

Title

Address

Signature and Date

(2) *Exception.* If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§ 10.234 through 10.236, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential tariff treatment. The importer will have 30 calendar days from the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential tariff treatment. For purposes of this paragraph, a ''series of importations'' means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.

§ 10.237 Verification and justification of claim for preferential tariff treatment.

(a) *Verification by Customs.* A claim for preferential tariff treatment made under § 10.235, including any statements or other information contained on a Certificate of Origin submitted to Customs under § 10.236, will be subject to whatever verification the port director deems necessary. In the event that the port director for any reason is prevented from verifying the claim, the port director may deny the claim for preferential tariff treatment. A verification of a claim for preferential tariff treatment may involve, but need not be limited to, a review of:

(1) All records required to be made, kept, and made available to Customs by the importer or any other person under part 163 of this chapter;

(2) Documentation and other information in a CBTPA beneficiary country regarding the country of origin of an article and its constituent materials, including, but not limited to, production records, information relating to the place of production, the number and identification of the types of machinery used in production, and the number of workers employed in production; and

(3) Evidence in a CBTPA beneficiary country to document the use of U.S. materials in the production of the article in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and clearance documents.

(b) *Importer requirements.* In order to make a claim for preferential tariff treatment under § 10.235, the importer:

(1) Must have records that explain how the importer came to the conclusion that the article qualifies for preferential tariff treatment. Those records must include documents that support a claim that the article in question qualifies for preferential tariff treatment because it meets the applicable rule of origin set forth in General Note 12, HTSUS, and in the appendix to part 181 of this chapter. A properly completed Certificate of Origin in the form prescribed in § 10.236(b) is a record that would serve this purpose;

(2) Must establish and implement internal controls which provide for the periodic review of the accuracy of the Certificate of Origin or other records referred to in paragraph (b)(1) of this section;

(3) Must have shipping papers that show how the article moved from the CBTPA beneficiary country to the United States. If the imported article was shipped through a country other than a CBTPA beneficiary country and the invoices and other documents from the CBTPA beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in

§ 10.233(d)(3)(i) through (iii) were met; and

(4) Must be prepared to explain, upon request from Customs, how the records and internal controls referred to in paragraphs (b)(1) through (b)(3) of this section justify the importer's claim for preferential tariff treatment.

PART 163—RECORDKEEPING

1. The authority citation for Part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.

2. The Appendix to Part 163 is amended by adding two new listings under section IV in numerical order to read as follows:

Appendix to Part 163—Interim (a)(1)(A) List

* * * * *

IV. * * *

§ 10.226 CBTPA Textile Certificate of Origin and supporting records

§ 10.236 CBTPA Non-textile Certificate of Origin and supporting records

* * * * *

Raymond W. Kelly,

Commissioner of Customs.

Approved: September 29, 2000.

Timothy E. Skud,

Acting Deputy Assistant Secretary of the Treasury.

[FR Doc. 00–25517 Filed 10–2–00; 8:45 am]

BILLING CODE 4820–02–P