

# U.S. Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR PARTS 10, 24, 162, 163, AND 178

USCBP-2008-0060

CBP DEC. 10-26

RIN 1515-AD60 (FORMERLY 1505-AB84)

## DOMINICAN REPUBLIC--CENTRAL AMERICA—UNITED STATES FREE TRADE AGREEMENT

**AGENCY:** Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Final rule.

**SUMMARY:** This document adopts as a final rule, with some changes, interim amendments to title 19 of the Code of Federal Regulations (“CFR”) which were published in the **Federal Register** on June 13, 2008, as CBP Dec. 08-22 to implement the preferential tariff treatment and other customs-related provisions of the Dominican Republic—Central America—United States Free Trade Agreement.

**DATES:** Final rule effective September 16, 2010.

**FOR FURTHER INFORMATION CONTACT:** Textile Operational Aspects: Robert Abels, Trade Policy and Programs, Office of International Trade, (202) 863-6503.

Other Operational Aspects: Seth Mazze, Trade Policy and Programs, Office of International Trade, (202) 863-6567.

Legal Aspects: Karen Greene, Regulations and Rulings, Office of International Trade, (202) 325-0041.

## SUPPLEMENTARY INFORMATION:

### Background

On August 5, 2004, the governments of Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, and the United States signed the Dominican Republic—Central America—United States Free Trade Agreement (“CAFTA-DR” or “Agreement”).

The provisions of the CAFTA-DR were adopted by the United States with the enactment on August 2, 2005, of the Dominican Republic—Central America—United States Free Trade Agreement Implementation Act (the “Act”), Pub. L. 109–53, 119 Stat. 462 (19 U.S.C. 4001 *et seq.*). Section 210 of the Act requires that regulations be prescribed as necessary to implement these provisions of the CAFTA-DR.

On June 13, 2008, CBP published CBP Dec. 08–22 in the **Federal Register** (73 FR 33673), setting forth interim amendments to implement the preferential tariff treatment and customs-related provisions of the CAFTA-DR. In order to provide transparency and facilitate their use, the majority of the CAFTA-DR implementing regulations set forth in CBP Dec. 08–22 were included within subpart J in part 10 of the CBP regulations (19 CFR subpart J, part 10). However, in those cases in which CAFTA-DR implementation was more appropriate in the context of an existing regulatory provision, the CAFTA-DR regulatory text was incorporated in an existing part within the CBP regulations.

Although the interim regulatory amendments were promulgated without prior public notice and comment procedures and took effect on June 13, 2008, CBP Dec. 08–22 provided for the submission of public comments that would be considered before adopting the interim regulations as a final rule. The prescribed public comment period closed on August 12, 2008.

### Discussion of Comment Received in Response to CBP Dec. 08–22

Only one response was received to the solicitation of comments on the interim rule set forth in CBP Dec. 08–22. The points raised by the commenter are discussed below.

#### *Comment :*

The commenter referenced § 10.584(a)(4) of the interim regulations which sets forth a statement that must be included as part of the certification on which an importer may rely in making a preference claim under the CAFTA-DR. In regard to the second sentence of the statement, concerning the maintenance and presentation of docu-

mentation in support of representations made in the certification, the commenter recommended that this language be amended to provide a time period within which the documentation must be maintained. The commenter recommends a time period of 18 months from the date of execution of the certification.

*CBP's Response :*

Section 10.587(a) of the CBP regulations, concerning the maintenance of records, implements Article 4.19.2 of the CAFTA-DR by providing that all records and documents that an importer has in support of a claim for preferential tariff treatment under the CAFTA-DR must be maintained for a minimum of five years after the date of importation. CBP believes it is unnecessary to repeat this time period for the retention of records in the statement set forth in § 10.584(a)(4).

*Comment :*

The commenter requested a clarification of § 10.584(f), which states that a properly completed, signed, and dated certification will be accepted as valid for four years following the date on which it was signed.

*CBP's Response :*

Section 10.584(f) reflects Article 4.16.5 of the CAFTA-DR which provides that the "...certification shall be valid for four years after the date it was issued." CBP believes that this provision potentially impacts upon the acceptability of CAFTA-DR preference claims made by U.S. importers that are based on certifications. An importer may make such a claim based either on a certification or on the importer's knowledge that the good qualifies as an originating good. *See* § 10.583(a). If the certification forms the basis for the claim, § 10.584(a)(2) requires that the certification be in the possession of the importer at the time the claim is made. A certification will not be accepted as a valid basis for a preference claim if it predates the date of the claim by more than four years; however, it may serve as the basis for a new certification that would be acceptable.

It should be noted that the four-year limitation on the validity of a certification will not be a factor in any subsequent verification by CBP of a CAFTA-DR preference claim, assuming that the claim was based on a properly completed and timely certification. For example, if CBP conducts a verification of a CAFTA-DR claim more than four years after the date of the certification upon which the claim was based, the fact that the four-year period has expired at that point will not serve as a basis for CBP to deny the claim. Again, this assumes

that the certification was valid in all respects at the time the claim for preferential tariff treatment was made to CBP.

*Comment :*

The commenter asserted that § 10.585(a)(1) and (a)(2) impose impossible obligations on the importer. These provisions state that an importer who makes a claim for preferential tariff treatment under the CAFTA-DR (1) will be deemed to have “certified” that the good is eligible for such treatment; and (2) is responsible for the truthfulness of the claim and the information in the certification. According to the commenter, unless the importer has conducted an audit of the producer’s books and records, it cannot “certify” that the good is eligible for preference or attest to the truthfulness of the claim and the information in the certification. In this regard, the commenter noted that some producers may be reluctant to open their books and records to their customers, including U.S. importers.

*CBP’s Response :*

CBP disagrees with the commenter’s assertion that the importer should not be responsible for certifying that the goods are eligible for preference or for the truthfulness of the claim and the information in the certification. It is the responsibility of the U.S. importer of the goods for which preference is sought to file the appropriate entry with CBP and make the claim for preferential tariff treatment for the goods. In making this claim, the importer is responsible for exercising reasonable care to ensure that the goods are entitled to such treatment. CBP acknowledges that some producers may be reluctant to open their books to importers, but notes that an importer who has not acted fraudulently but nevertheless made an incorrect claim, is not subject to penalties if the importer promptly and voluntarily makes a corrected declaration and pays any duties owing. (19 CFR 10.585, 10.621, 10.623)

*Comment :*

The commenter objected to the requirement in § 10.587(a) that an importer claiming CAFTA-DR preference must maintain, for a minimum of five years after the date of importation, *all* records and documents that the importer has demonstrating that the goods qualify for such treatment. According to the commenter, it is not reasonable or necessary to require that the importer maintain non-entry type documents for a five year period. The commenter recommended that the five-year record retention requirement be limited only to the certification.

*CBP's Response :*

As previously indicated, § 10.587(a) implements Article 4.19.2 of the CAFTA-DR which requires each Party to the Agreement to provide that an importer claiming preference under the Agreement for a good imported into its territory “shall maintain, for a minimum of five years from the date of importation of the good, all records and documents necessary to demonstrate the good qualified for the preferential tariff treatment.” CBP believes that adopting the commenter’s recommended change to § 10.587(a) would be contrary to the specific language of the CAFTA-DR set forth above.

*Comment :*

The commenter requested that CBP clarify in the preamble to this final rule document that the word “transshipment”, as used in §§ 10.588(b), 10.604, 10.609, and 10.610, is not intended to refer to “illegal transshipment”, which is the meaning sometimes associated with term “transshipment” when used in the context of textile and apparel imports.

*CBP's Response :*

In the context in which the word “transshipment” is used in the above-referenced provisions, CBP doubts that it would be misinterpreted as suggested by the commenter. However, to avoid any potential confusion in this regard, CBP confirms that the word “transshipment”, as used in the above-referenced provisions, is not intended to mean “illegal transshipment”.

*Comment :*

The commenter recommended that, to avoid confusion, the heading “Rules of Origin” immediately preceding § 10.593 be replaced with “Preference Rules of Origin” or some other similar wording.

*CBP's Response :*

CBP does not believe that the heading “Rules of Origin” requires any clarification in this context. The provisions set forth in subpart J, part 10 of the CBP regulations exclusively concern and implement the preferential tariff treatment provisions of the CAFTA-DR. Additionally, CBP notes that the same heading appears in the CBP regulations implementing a number of other free trade agreements (“FTAs”), including, for example, the United States-Chile Free Trade Agreement (see 19 CFR subpart H, part 10) and the United States-Singapore Free Trade Agreement (see 19 CFR subpart I, part 10).

*Comment :*

The commenter referenced § 10.617, which sets forth a special rule for verifications conducted in an exporting CAFTA-DR Party relating to textile and apparel goods imported into the United States. The commenter asked that CBP amend this section to require that the U.S. importer be notified when a request for a verification is made by CBP to the government of an exporting Party. According to the commenter, advising U.S. importers that such a request has been made will help to ensure that the foreign producer or exporter takes the inquiry seriously and provides the appropriate information without undue delay and confusion.

*CBP's Response :*

Section 10.617 implements Article 3.24 of the CAFTA-DR which sets forth detailed procedures for conducting verifications in an exporting CAFTA-DR Party at the request of the importing Party and does not require the notification requested by the commenter. However, we do note that § 10.585 of the CBP regulations provides an importer the opportunity to arrange to have an exporter or producer provide to CBP any information relied upon in making a certification.

### **Changes to the Regulations**

The final rulemaking text set forth below incorporates the following changes which CBP believes are necessary as result of further internal review of the interim regulatory text:

1. In § 10.31, relating to temporary importations under bond, the last sentence in paragraph (f) has been revised to add Costa Rica to the list of countries. The CAFTA-DR entered into force with respect to Costa Rica on January 1, 2009 (*see* Presidential Proclamation 8331 dated December 23, 2008, published in the **Federal Register** on December 30, 2008 (73 FR 79585));

2. In § 10.582, the portion of the definition of “Customs duty” set forth in paragraph (d)(2) has been revised to correct an error by changing the first letter of the word “Domestic” from uppercase to lowercase;

3. In § 10.583, concerning the filing of a CAFTA-DR preference claim upon importation, the first sentence in paragraph (c) has been revised to replace the cross-reference to “paragraph (a)” with the correct cross-reference, “paragraph (b)”;

4. In § 10.592, relating to the processing procedures for post-importation duty refund claims:

- a. Paragraph (d)(1) has been revised to add a reference to “§ 10.588” immediately preceding the second reference to “§

10.591” to clarify that the failure of an importer to satisfy the requirements of § 10.588 may be the basis for a denial of a post-importation duty refund claim; and

b. Paragraph (d)(1) has been further revised to remove the words “initiation of” in the phrase “following initiation of an origin verification” to more accurately reflect when determinations are made by CBP based upon the results of origin verifications;

5. In § 10.593, which sets forth definitions relating to the rules of origin:

a. The portion of the definition of “Class of motor vehicles” set forth in paragraph (b)(3) has been revised to remove the unnecessary word “provided” immediately preceding the words “for the transport of”; and

b. The definition of “reasonably allocate” in paragraph (p) has been revised to capitalize the first letter in each of the words “generally accepted accounting principles”, consistent with the manner in which those words appear in other provisions in 19 CFR subpart J, part 10 (*see, for example*, §§ 10.593(e) and 10.596(d));

6. In § 10.595, concerning the regional value content test, paragraph (d)(2) has been revised to capitalize the first letter in each of the words “generally accepted accounting principles”, consistent with the manner in which those words are used elsewhere in 19 CFR subpart J, part 10;

7. In § 10.598, which sets forth the *de minimis* rules and exceptions:

a. Paragraph (c)(1)(ii) has been revised to update four of the HTSUS subheadings referenced in that paragraph: 5402.10.30, 5402.10.60, 5402.41.10, and 5402.41.90. These subheadings, which encompass nylon filament yarns, were replaced by subheadings 5402.11.30, 5402.11.60, 5402.45.10, and 5402.45.90, respectively (*see* Presidential Proclamation 8097 dated December 27, 2006, published in the **Federal Register** on January 4, 2007 (72 FR 453)); and

b. Paragraph (c)(3) has been revised to replace the first reference to the words “group of fibers” with “fiber” and to replace the words “yarn, fabric, or group of fibers” at the end of the paragraph with the word “good”. These changes more closely conform this provision to the wording in section 203(f)(3)(C) of the Act;

8. Section 10.606, concerning the filing of tariff preference level (TPL) claims for certain non-originating apparel goods, has been revised to reflect the addition of certain apparel articles that may be entitled to preferential tariff treatment under applicable TPLs (*see* Presidential Proclamation 8213 dated December 20, 2007, published in the **Federal Register** on December 27, 2007 (72 FR 73555), as modified by Presidential Proclamation 8272 dated June 30, 2008, published in the **Federal Register** on July 3, 2008 (73 FR 38297); and Presidential Proclamation 8331 of December 23, 2008, published in the **Federal Register** on December 30, 2008 (73 FR 79585));

9. Section 10.607, which sets forth the apparel goods eligible for TPL claims, has been revised consistent with the updates described above in regard to § 10.606;

10. Section 10.608, concerning the submission of a certificate of eligibility in support of a TPL claim, has been revised to clarify that the certificate is required only in connection with TPL claims for certain qualifying apparel goods from Nicaragua;

11. In § 10.616, concerning verifications by CBP of CAFTA-DR preference claims:

a. The introductory text of paragraph (a) has been revised to add a reference to “§ 10.591” immediately after the reference to “§ 10.583(b)” to clarify that a post-importation duty refund claim may also be subject to a verification by the port director; and

b. Paragraph (a)(4) has been revised to replace the word “Parties” with the words “ United States and the exporting Party”, which more closely conform to the wording in Article 4.20.1(e) of the CAFTA-DR;

12. In § 10.617, which sets forth a special rule for verifications in an exporting Party relating to U.S. imports of textile and apparel goods, paragraph (b)(3)(ii) has been revised to correct an error by replacing the words “to any to any” with the words “to any”;

13. In § 10.625, relating to the retroactive application of the CAFTA-DR for textile and apparel goods:

a. The paragraph (b) introductory text has been revised to replace the words “the date of the entry into force of the Agreement with respect to the last CAFTA-DR country” with “January 1, 2009” to reflect the date on which the CAFTA-DR entered into force with respect to Costa Rica. Of the six foreign signatories to the CAFTA-DR, Costa Rica was the last country for which the Agreement entered into force;

b. The paragraph (c) introductory text has been revised to replace the words “within 90 days after the date of the entry into

force of the Agreement for the last CAFTA-DR country” with “April 1, 2009”, consistent with the change discussed above in regard to paragraph (b); and

c. Paragraph (d) has been revised to remove the definition of “last CAFTA-DR country” in paragraph (d)(2) since those words no longer appear in § 10.625 as a result of the changes to paragraphs (b) and (c). The definition of “textile or apparel good” in paragraph (d)(3) also has been removed as these words are already defined in § 10.582, which sets forth general definitions for purposes of the CAFTA-DR;

14. In § 24.23, which concerns merchandise processing fees and exemptions from the application of those fees, paragraph (c)(9) has been revised to replace “January 1, 2005” with the correct date on which the CAFTA-DR first entered into effect, “March 1, 2006” (*see* Presidential Proclamation 7987 dated February 28, 2006, published in the **Federal Register** on March 2, 2006 (71 FR 10827)); and

15. In § 163.1, relating to recordkeeping requirements, paragraph (a)(2)(x) has been revised to correct an error by replacing “an” with “a”.

### **Conclusion**

Accordingly, based on the analysis of the comment received and the additional considerations discussed above, CBP believes that the interim regulations published as CBP Dec. 08–22 should be adopted as a final rule with certain changes as discussed above and as set forth below.

### **Executive Order 12866**

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866.

### **Regulatory Flexibility Act**

CBP Dec. 08–22 was issued as an interim rule rather than a notice of proposed rulemaking because CBP had determined that the interim regulations involve a foreign affairs function of the United States pursuant to section 553(a)(1) of the Administrative Procedure Act. Because no notice of proposed rulemaking was required, the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601

*et seq.*), do not apply to this rulemaking. Accordingly, this final rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

### **Paperwork Reduction Act**

The collections of information in this final rule have previously been reviewed and 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 1651–0125.

The collections of information in these regulations are in §§ 10.583 and 10.584. This information is required in connection with claims for preferential tariff treatment under the CAFTA-DR and the Act and will be used by CBP to determine eligibility for tariff preference under the CAFTA-DR and the Act. The likely respondents are business organizations including importers, exporters, and manufacturers.

The estimated average annual burden associated with the collection of information in this final rule is 0.2 hours per respondent or record keeper. Under the Paperwork Reduction Act, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

### **Signing Authority**

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

### **List of Subjects**

#### *19 CFR Part 10*

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

#### *19 CFR Part 24*

Accounting, Customs duties and inspection, Financial and accounting procedures, Reporting and recordkeeping requirements, Trade agreements, User fees.

#### *19 CFR Part 162*

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

*19 CFR Part 163*

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

*19 CFR Part 178*

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

### **Amendments to the CBP Regulations**

Accordingly, the interim rule amending parts 10, 24, 162, 163, and 178 of the CBP regulations (19 CFR parts 10, 24, 162, 163, and 178), which was published at 73 FR 33673 on June 13, 2008, is adopted as a final rule with certain changes as discussed above and as set forth below.

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

1. The general authority citation for Part 10 and the specific authority for subpart J continue to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States (HTSUS)), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

\* \* \* \* \*

Sections 10.581 through 10.625 also issued under 19 U.S.C. 1202 (General Note 29, HTSUS), 19 U.S.C. 1520(d), and Pub. L. 109–53, 119 Stat. 462 (19 U.S.C. 4001 note).

#### **§ 10.31 [Amended]**

2. In § 10.31, paragraph (f) is amended by removing the words “or the Dominican Republic” in the last sentence and adding, in their place, the words “the Dominican Republic, or Costa Rica”.

#### **§ 10.582 [Amended]**

3. In § 10.582, paragraph (d)(2) is amended by removing the word “Domestic” and adding, in its place, the word “domestic”.

#### **§ 10.583 [Amended]**

4. In § 10.583, paragraph (c) is amended by removing the reference to “paragraph (a)” in the first sentence and adding, in its place, a reference to “paragraph (b)”.

#### **§ 10.592 [Amended]**

5. In § 10.592: paragraph (d)(1) is amended by removing the second reference to

“§ 10.591” in the paragraph and adding, in its place, a reference to “§§ 10.588 and 10.591”, and by removing the words “initiation of”.

**§ 10.593 [Amended]**

6. In § 10.593:

a. Paragraph (b)(3) is amended by removing the word “provided” immediately preceding the words “for the transport of”; and

b. Paragraph (p) is amended by removing the words “generally accepted accounting principles” and adding, in their place, the words “Generally Accepted Accounting Principles”.

**§ 10.595 [Amended]**

7. In § 10.595, paragraph (d)(2) is amended by removing the words “generally accepted accounting principles” and adding, in their place, the words “Generally Accepted Accounting Principles”.

8. Section 10.598 is amended by revising paragraphs (c)(1)(ii) and (c)(3) to read as follows:

**§ 10.598 De minimis.**

\* \* \* \* \*

(c) \* \* \*

(1) \* \* \*

(ii) The yarns are nylon filament yarns (other than elastomeric yarns) that are provided for in subheading 5402.11.30, 5402.11.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.45.10, 5402.45.90, 5402.51.00, or 5402.61.00, HTSUS, and that are products of Canada, Mexico, or Israel.

(2) \* \* \*

(3) *Yarn, fabric, or fiber.* For purposes of paragraph (c) of this section, in the case of a textile or apparel good that is a yarn, fabric, or fiber, the term “component of the good that determines the tariff classification of the good” means all of the fibers in the good.

9. Section 10.606 is revised to read as follows:

**§ 10.606 Filing of claim for tariff preference level.**

Apparel goods of a Party described in § 10.607 of this subpart that do not qualify as originating goods under § 10.594 of this subpart may nevertheless be entitled to preferential tariff treatment under the CAFTA-DR under an applicable tariff preference level (TPL). To

make a TPL claim, the importer must include on the entry summary, or equivalent documentation, the applicable subheading in Chapter 98 or 99 of the HTSUS immediately above the applicable subheading in Chapter 61 or 62 of the HTSUS under which each non-originating apparel good is classified. The applicable Chapter 98 and 99 subheadings are:

- (a) Subheading 9822.05.11 or 9822.05.13 for goods described in § 10.607(a);
- (b) Subheading 9915.61.01 for goods described in § 10.607(b) and (c);
- (c) Subheading 9915.62.05 for goods described in § 10.607(d);
- (d) Subheading 9915.62.15 for goods described in § 10.607(e); and
- (e) Subheading 9915.61.03 or 9915.61.04 for goods described in § 10.607(f);

10. Section 10.607 is revised to read as follows:

**§ 10.607 Goods eligible for tariff preference level claims.**

The following goods are eligible for a TPL claim filed under § 10.606 of this subpart:

(a) *Cumulation for certain woven apparel goods of a Party.* In accordance with General Note 29(d)(vii), HTSUS, for purposes of determining whether a good of Chapter 62, HTSUS, is an originating good, materials used in the production of the good produced in the territory of Mexico that would have been considered originating if produced in the territory of a Party, will be considered as having been produced in the territory of a Party. The applicable product-specific and chapter rules for Chapter 62, HTSUS, set forth in General Note 29, HTSUS, must be satisfied. The preferential tariff treatment is limited to the quantities specified in U.S. Note 21(b), Subchapter XXII, Chapter 98, HTSUS, except that the following goods made from wool fabric are not subject to these limits: men's and boys' and women's and girls' suits, trousers, suit-type jackets and blazers and vests and women's and girls' skirts, provided that such goods are not made of carded wool fabric or made from wool yarn having an average fiber diameter of not over 18.5 microns. Subheading 9822.05.11, HTSUS, applies to the goods described above that are subject to quantitative limits while subheading 9822.05.13, HTSUS, applies to the goods described above that are not subject to such limits;

(b) *Cotton or man-made fiber apparel goods of Nicaragua.* Cotton or man-made fiber apparel goods described in U.S. Note 15(b), Subchap-

ter XV, Chapter 99, HTSUS, that are both cut (or knit-to-shape) and sewn or otherwise assembled in the territory of Nicaragua, and that meet the applicable conditions for preferential tariff treatment under the CAFTA-DR, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 15(c), Subchapter XV, Chapter 99, HTSUS;

(c) *Men's wool sport coats of Nicaragua.* Men's sport coats described in U.S. Note 15(b), Subchapter XV, Chapter 99, HTSUS, provided that the component that determines the tariff classification of the good is of carded wool fabric of subheading 5111.11.70, 5111.19.60, or 5111.90.90, HTSUS, the goods are both cut (or knit-to-shape) and sewn or otherwise assembled in the territory of Nicaragua, and the goods meet the applicable conditions for preferential tariff treatment under the CAFTA-DR, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 15(c), Subchapter XV, Chapter 99, HTSUS;

(d) *Apparel goods of Costa Rica, not knitted or crocheted.* Apparel goods described in U.S. Note 16(b), Subchapter XV, Chapter 99, HTSUS, not knitted or crocheted, containing 36 percent or more by weight of wool or subject to wool restraints, provided that the goods are both cut and sewn or otherwise assembled in the territory of Costa Rica, meet the applicable conditions for preferential tariff treatment under the CAFTA-DR, other than the condition that they are originating goods, and comply with the requirements set forth in chapter rules 1, 3, 4, and 5 for Chapter 62 of General Note 29, HTSUS. The preferential tariff treatment is limited to the quantities specified in U.S. Note 16(a), Subchapter XV, Chapter 99, HTSUS.;

(e) *Apparel goods of Costa Rica made from wool fabric.* Apparel goods described in U.S. Note 16(d), Subchapter XV, Chapter 99, HTSUS, made from fabric of wool (except fabric of carded wool or fabric made from wool yarn having an average fiber diameter of less than or equal to 18.5 microns), provided that the goods are both cut and sewn or otherwise assembled in the territory of Costa Rica, and meet the applicable conditions for preferential tariff treatment under the CAFTA-DR, other than the condition that they are originating goods. The preferential tariff treatment is limited to the quantities specified in U.S. Note 16(c), Subchapter XV, Chapter 99, HTSUS; and

(f) *Mastectomy swimsuits of Costa Rica.* Women's knitted or crocheted swimwear, classified in subheading 6112.41.00 (of synthetic fibers) or 6112.49.00, HTSUS (of other textile fibers), specially designed to accommodate post-mastectomy breast prostheses, containing two full size interior pockets with side openings, two preformed

cups, a supporting elastic band below the breast and vertical center stitching to separate the two pockets, provided that the goods are both cut (or knit-to-shape) and sewn or otherwise assembled in the territory of Costa Rica, and meet the applicable conditions for preferential tariff treatment under the CAFTA-DR, other than the condition that they are originating goods. Subheading 9915.61.03, HTSUS, applies to the swimsuits described above classified in subheading 6112.41.00, HTSUS, while subheading 9915.61.04, HTSUS, applies to the swimsuits described above classified in subheading 6112.49.00, HTSUS. The preferential tariff treatment is limited to the quantities specified in U.S. Note 17(a), Subchapter XV, Chapter 99, HTSUS.

11. Section 10.608 is amended by revising the heading and the first sentence to read as follows:

**§ 10.608 Submission of certificate of eligibility for certain apparel goods of Nicaragua.**

An importer who claims preferential tariff treatment on a non-originating apparel good of Nicaragua specified in paragraphs (b) and (c) of § 10.607 of this subpart must submit a certificate of eligibility issued by an authorized official of the Government of Nicaragua, demonstrating that the good is eligible for entry under the applicable TPL. \* \* \*

**§ 10.616 [Amended]**

12. In § 10.616:

- a. The introductory text of paragraph (a) is amended by adding a reference to “or § 10.591” immediately following the reference to “§ 10.583(b)”; and
- a. Paragraph (a)(4) is amended by removing the word “Parties” and adding, in its place, the words “United States and the exporting Party”.

**§10.617 [Amended]**

13. In § 10.617, paragraph (b)(3)(ii) is amended by removing the words “to any to any” and adding, in their place, the words “to any”.

14. Section 10.625 is amended by revising the paragraph (b) introductory text, the paragraph (c) introductory text, and paragraph (d) to read as follows:

**§ 10.625 Refunds of excess customs duties.**

\* \* \* \* \*

(b) *General.* Notwithstanding 19 U.S.C. 1514 or any other provision of law, and subject to paragraph (c) of this section, a textile or apparel

good of an eligible CAFTA-DR country that was entered or withdrawn from warehouse for consumption on or after January 1, 2004, and before January 1, 2009, will be liquidated or reliquidated at the applicable rate of duty for that good set out in the Schedule of the United States to Annex 3.3 of the Agreement, and CBP will refund any excess customs duties paid with respect to such entry, with interest accrued from the date of entry, provided: \* \* \*

(c) *Request for liquidation or reliquidation.* Liquidation or reliquidation may be made under paragraph (b) of this section with respect to an entry of a textile or apparel good of an eligible CAFTA-DR country only if a request for liquidation or reliquidation is filed with the CBP port where the entry was originally filed by April 1, 2009, and the request contains sufficient information to enable CBP:

\* \* \*

(d) *Eligible CAFTA-DR country defined.* For purposes of this section, the term “eligible CAFTA-DR country” means a country that the United States Trade Representative has determined, by notice published in the **Federal Register**, to be an eligible country for purposes of section 205 of the Act.

## PART 24 —CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

15. The general authority citation for Part 24 and the specific authority for § 24.23 continue to read as follows:

**Authority** : 5 U.S.C. 301; 19 U.S.C. 58a-58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Public Law 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et seq.*).

\* \* \* \* \*

Section 24.23 also issued under 19 U.S.C. 3332;

\* \* \* \* \*

### § 24.23 [Amended]

16. In § 24.23, paragraph (c)(9) is amended by removing the date “January 1, 2005” and adding, in its place, the date “March 1, 2006”.

## PART 163 —RECORDKEEPING

17. 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.

### § 163.1 [Amended]

18. In § 163.1, paragraph (a)(2)(x) is amended by removing the word “an” and adding, in its place, the word “a”.

Dated: Approved: August 11, 2010

ALAN BERSIN  
*Commissioner*  
*U.S. Customs and Border Protection*

Timothy E. Skud

Deputy Assistant Secretary of the Treasury

[Published in the Federal Register, August 17, 2010 (75 FR 50695)]

  
**AGENCY INFORMATION COLLECTION ACTIVITIES:**  
**Importation Bond Structure**

**AGENCY:** U.S. Customs and Border Protection, Department of Homeland Security

**ACTION:** 60-Day Notice and request for comments; Extension and revision of an existing collection of information: 1651-0050

**SUMMARY:** As part of its continuing effort to reduce paperwork and respondent burden, CBP invites the general public and other Federal agencies to comment on an information collection requirement concerning the: Importation Bond Structure. This request for comment is being made pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-3; 44 U.S.C. 3505(c)(2)).

**DATES:** Written comments should be received on or before October 18, 2010, to be assured of consideration.

**ADDRESSES:** Direct all written comments to U.S. Customs and Border Protection, Attn: Tracey Denning, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-177.

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to Tracey Denning, U.S. Customs and Border Protection, Regulations and Rulings, Office of International Trade, 799 9th Street, NW, 7th Floor, Washington, DC. 20229-177, at 202-325-0265.

**SUPPLEMENTARY INFORMATION:** CBP invites the general public and other Federal agencies to comment on proposed and/or continuing information collections pursuant to the Paperwork Reduction Act of 1995 (Public Law 104-13; 44 U.S.C. 3505(c)(2)). The comments should address: (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 estimates of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden including the use of automated collection techniques or the use of other forms of information technology; and (e) the annual costs burden to respondents or record keepers from the collection of information (a total capital/startup costs and operations and maintenance costs). The comments that are submitted will be summarized and included in the CBP request for Office of Management and Budget (OMB) approval. All comments will become a matter of public record. In this document CBP is soliciting comments concerning the following information collection:

**Title:** Importation Bond Structure

**OMB Number:** 1651-0050

**Form Number:** 301 and 5297

**Abstract:** Bonds are used to assure that duties, taxes, charges, penalties, and reimbursable expenses owed to the Government are paid; to facilitate the movement of cargo and conveyances through CBP processing; and to provide legal recourse for the Government for noncompliance with laws and regulations. Any person who is required to post a bond to secure a customs transaction usually submits the bond on CBP Form 301, Customs Bond, to CBP.

CBP proposes to revise CBP Form 301 in order to accurately reflect the changes that have occurred with regard to CBP bonds. Specifically, the revised Form 301 will capture the new types of bonds which have been authorized by law and regulation, as well as better harmonize this form with current and future automation system requirements. *Section II* of the CBP Form 301 will be revised to specifically cover continuous activity code bonds for Importer Security Filing, Marine Terminal Operator, and Intellectual Property Rights Samples.

Bonds are usually executed by an agent of the surety. The surety company grants authority to the agent via CBP Form 5297, Corporate Surety Power of Attorney. Once this form is filed with CBP, the validity of the authority of the agent executing the bond and the name of the surety can be verified to the surety's grant. The trade community now has the ability to submit the information on CBP Form 5297 via the internet by using Automated Commercial Environment (ACE) portal technology. ACE surety portal account access allows sureties to add, revoke,

and change their surety agent powers of attorney electronically. This ACE portal account access is available to any surety who applies for the functionality at [www.cbp.gov](http://www.cbp.gov).

Bonds are required pursuant to 19 U.S.C.1608, and 1623; 22 U.S.C. 463; 19 CFR Part 113.37 and 113.11. CBP Forms 301 and 5297 are accessible at <http://www.cbp.gov/xp/cgov/toolbox/forms/>.

**Current Actions:** This submission is being made to extend the expiration date with a change to the burden hours based on revised estimates by CBP.

**Type of Review:** Extension (with change)

**Affected Public:** Businesses

**Form 301, Customs Bond**

**Estimated Number of Respondents:** 800,000

**Total Number of Estimated Annual Responses :** 800,000

**Estimated time per Response:** 15 minutes

**Estimated Total Annual Burden Hours:** 200,000

**Form 5297, Corporate Surety Power of Attorney**

**Estimated Number of Respondents:** 500

**Total Number of Estimated Annual Responses :** 500

**Estimated time per Response:** 15 minutes

**Estimated Total Annual Burden Hours:** 125

Dated: August 11, 2010

TRACEY DENNING  
Agency Clearance Officer  
U.S. Customs and Border Protection

[Published in the Federal Register, August 17, 2010 (75 FR 50772)]

