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November 6, 2000

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TO: All Directors, Field Operations
All Port Directors

FROM: Director, Trade Programs

SUBJECT: TBT-00-023-01 Updated Implementation Information for the
Caribbean Basin Trade Partnership Act (CBTPA) for Textile and Apparel
Products (19 CFR 10.221 through 10.227)

PASS TO: Assistant Port Directors, Trade, National Import Specialists, Import
Specialists, Inspectors, Entry Specialists, Brokers and Importers

NOTE: Please note TBT-00-023 dated October 20, 2000 is superceded.

BACKGROUND:

Title II of the Trade and Development Act of 2000 ("the Act"), which was signed into law on May 18, 2000, authorized the expansion of trade benefits to designated countries in the Caribbean Basin. This trade program provides for the entry of specific textile and apparel articles free of duty and free of any quantitative restrictions, limitations or consultation levels, as well as other benefits to non-textile products. This notice is to address the requirements for the entry of textile and apparel products under the CBTPA.

The President is authorized to designate a Caribbean Basin country as an eligible beneficiary country based on several criteria established in the Act. The preferential tariff treatment provided under CBTPA is effective until the earlier of September 30, 2008 or the date on which the Free Trade Area of the Americas (FTAA) or another free trade agreement is implemented with respect to the United States and the CBTPA beneficiary country. The trade community will be notified if CBTPA eligibility is changed for any beneficiary country.

Section 211 of the Act outlines the treatment of certain textile and apparel articles for CBTPA. Wearing apparel articles that meet the specific preferential categories may enter into the Customs Territory of the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, except those noted below.

ENTRY REQUIREMENTS FOR CLAIMING CBTPA TREATMENT

In order for a claim to be accepted under the CBTPA preferential tariff treatment for textile and apparel products, **ALL** of the following requirements must be met:

1. The designated beneficiary country has implemented and follows, or is making substantial progress toward implementing the requirements and relevant procedures of Chapter 5 of the North American Free Trade Agreement (NAFTA). To date, effective October 2, 2000, only the following countries have been identified by USTR as meeting those requirements:

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|--------------------|-----------|
| Belize | Haiti |
| Costa Rica | Honduras |
| Dominican Republic | Jamaica |
| El Salvador | Nicaragua |
| Guatemala | Panama |

2. The good is classified under Harmonized Tariff Schedule of the United States (HTSUS) tariff item number 9802.00.80 or 9820.11, along with the associated chapter 1-97 number. **For the list of 9802.00.80 and 9820.11 HTSUS numbers, refer to Preferential Groupings listed below,**
3. A CBTPA textile Certificate of Origin, completed by the exporter, is in the possession of the importer and available upon request to U.S. Customs when the claim is made. The format can be found in 19 CFR 10.224 of the Customs Regulations (published in the Federal Register dated October 5, 2000). Certificates of Origin will not be required for:
 - a. articles for which the port director has, in writing, waived the requirements for a Certificate of Origin because the port director is satisfied that the article qualifies for preferential treatment,
 - b. a non-commercial importation,
 - c. a commercial importation of an article whose value does not exceed \$2,500, provided that a statement as identified in 19 CFR 10.226 (d)(iii) is submitted,
4. For articles subject to quantitative limitations, the levels must still be available at the time of the claim; otherwise, payment of duty is required under the associated Chapter 1-97 number,
5. The merchandise must be imported directly from a designated beneficiary country listed above, and,
6. The merchandise must be an apparel article classifiable in HTSUS chapters 61, or 62, or headings 6501, 6502, 6503, 6504, or subheadings 6406.99 or 6505.90 or textile luggage classified in Chapter 42.

Please note that all existing importing requirements, including the requirements for the current textile declarations have not changed. The above documentation requirements **are in addition** to any other entry documents.

IMPORTER RESPONSIBILITIES

Before making a claim, the following requirements must be met by the importer:

1. Must have records to explain how it came to the conclusion that the textile or apparel article qualifies for preferential treatment,
2. Must have established and implemented internal controls which provide for the periodic review of the accuracy of the Certificates of Origin,
3. Must have shipping papers that show how the article moved from the CBTPA beneficiary country to the United States, and,
4. Must be prepared to explain, upon request from Customs, how the records and internal controls mentioned above justify its claim for preferential treatment.

PREFERENTIAL GROUPINGS

A claim for preferential tariff treatment under CBTPA may be made if the textile or apparel article qualifies under one of these groupings:

1. Apparel articles assembled in one or more such 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 such fabrics are classifiable in heading 5602 or 5603 and are wholly formed and cut in the United States) that are entered under subheading 9802.00.8044. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9802.00.8044) (19 CFR 10.223 [a][1])**
2. Apparel articles assembled in one or more such 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 such fabrics are classifiable in heading 5602 or 5603 and are wholly formed and cut in the United States), that are entered under chapter 61 or 62 of the HTSUS and if after such 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. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.03) (19 CFR 10.223 [a][2])**

NOTE: Merchandise that qualifies for 9802 should not also use HTSUS number 9820.11.03.

3. Apparel articles (other than those identified in 9820.11.18) cut in one or more such 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 such fabrics are classifiable in heading 5602 or 5603 and are wholly formed in the United States), if such articles are assembled in one or more such beneficiary countries with thread formed in the United States. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.06) (19 CFR 10.223 [a][3])**
4. Apparel articles (other than socks provided for in heading 6115 of the HTSUS) knit to shape in a beneficiary country from yarns wholly formed in the United States; knitted or crocheted apparel articles (except t-shirts, other than underwear, classifiable in subheadings 6109.10.00 and 6109.90.10 and described in subheading 9820.11.12) cut and wholly assembled in one or more such beneficiary countries from fabrics formed in one or more such beneficiary countries or in one or more such beneficiary countries and the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the tariff schedule and are formed in one or more such beneficiary countries). This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.09) (19 CFR 10.223 [a][4])**

LIMITATIONS ON BENEFITS

Imports of apparel articles under subheading 9820.11.09 shall be limited, in the one-year period beginning on October 1, 2000, to an aggregate quantity not to exceed 250,000,000 square meter equivalents. Such imports of apparel articles shall be limited during one-year periods.

Please see the subchapter XX notes in the HTSUS for specific quantities and the appropriate QBT for reporting instructions to be issued.

5. T-shirts, other than underwear, classifiable in subheadings 6109.10.00 and 6109.90.10 of the HTSUS, made in one or more designated beneficiary countries from fabric formed in one or more such countries from yarns wholly formed in the United States. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.12) (19 CFR 10.223 [a][5])**

LIMITATIONS ON BENEFITS

Imports of t-shirts under subheading 9820.11.12 shall be limited, in the one-year period beginning on October 1, 2000, to an aggregate quantity

not to exceed 4,200,000 dozen. Such imports of such t-shirts shall be limited during one-year periods. Please see the subchapter XX notes in the HTSUS for specific quantities and QBT-2000-577 dated October 26, 2000 for reporting instructions.

6. Brassieres classifiable in subheading 6212.10 of the HTSUS, both cut and sewn or otherwise assembled in the United States or one or more designated beneficiary countries or both. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.15) (19 CFR 10.223 [a][6])**

SPECIAL RESTRICTIONS

For purposes of subheading 9820.11.15, imports of brassieres of a producer or an entity controlling production, during the 1-year period beginning on October 1, 2001, and during each of the six succeeding 1-year periods, shall be eligible for preferential treatment only if the aggregate cost of fabric components formed in the United States that are used in the production of all such articles of that producer or entity during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric contained in all such articles of that producer or entity that are entered during the preceding 1-year period. Refer to subchapter XX U.S. note 2 (d) of the HTSUS.

Note: Importers can make claims under this provision effective October 2, 2000.

7. Textile luggage assembled in a designated beneficiary country from fabric wholly formed and cut in the United States from yarn wholly formed in the United States that is entered under subheading 9802.00.8046. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9802.00.8046) (19 CFR 10.223 [a][10])**
8. Knitted or crocheted apparel articles (except t-shirts, other than underwear, classifiable in subheadings 6109.10.00 and 6109.90.10 and described in subheading 9820.11.12) cut and assembled in one or more such beneficiary countries from fabrics wholly formed in the United States from yarns wholly formed in the United States (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 and are wholly formed in the United States) if such assembly is with thread formed in the United States. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.18) (19 CFR 10.223 [a][12])**

9. Textile luggage assembled in a CBTPA beneficiary country from fabric cut in a designated beneficiary country from fabric wholly formed in the United States from yarn wholly formed in the United States. This applies to all fabrics and yarns contained in the product, except for the allowances provided under findings and trimmings, de-minimis and the interlining exceptions. **(9820.11.21) (19 CFR 10.223 [a][11])**

10. Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more beneficiary countries from fabrics or yarn not formed in the United States or in one or more such countries, provided that such apparel articles of such fabrics or yarns would be considered an originating good under the terms of general note 12(t) to the HTSUS without regard to the source of the fabric or yarn if such apparel article had been imported from the territory of Canada or the territory of Mexico directly into the customs territory of the United States. The fabrics and yarns in question include
 - a) fine count cotton knitted fabrics for certain apparel (see general note 12[t], Chapter 61, chapter rules 61.27[A], 61.30[A] and 61.32[A]),
 - b) linen fabrics,
 - c) silk fabrics,
 - d) cotton velveteen,
 - e) fine wale corduroy,
 - f) *Harris Tweed*,
 - g) certain woven fabrics made with animal hairs (see general note 12[t], chapter 62, chapter rule 2 [D]),
 - h) certain lightweight, high thread cotton poly-cotton woven fabrics (see general note 12[t], chapter 62, chapter rule [E]), and
 - i) certain lightweight, high thread count broadwoven fabrics used in production of men's and boys' shirts (see general note 12[t], chapter 62.SR29, subheading rule a-i). **(9820.11.24) (19 CFR 10.223 [a][7])**

Note: An informational notice will be issued shortly to describe more specifically these short supply fabrics.

11. Apparel articles both cut (or knit-to-shape) and sewn or otherwise assembled in one or more such beneficiary countries, from fabrics or yarn designated by the appropriate U.S. government authority in the Federal Register as fabrics or yarn not available in commercial quantities in the United States, under any terms as such authority may provide **(9820.11.27) (19 CFR 10.223 [a][8])**

To date, no such fabrics have been identified.

12. Handloomed, handmade or folklore textile and apparel goods. The goods covered by this provision will be negotiated between the President and the Caribbean Basin countries. The ports and the trade community will be notified when such agreements are made. **(9820.11.30) (19 CFR 10.223[a][9])**

SPECIAL DEFINITIONS

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 fabrics, 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.

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 effect the determination of whether an apparel article is “knit-to-shape”.

Imported Directly – refer to the definition 19 CFR 10.223 (b)(2).

Findings And Trimmings General Rule: An article otherwise eligible for preferential treatment shall not be ineligible for such treatment because the article contains findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article. Examples of findings and trimmings are sewing thread (except if the thread is under 9820.11.06 or 9820.11.18), hooks and eyes, snaps, buttons, 'bow buds', decorative lace trim, elastic strips, and zippers, including zipper tapes, and labels. Elastic strips are considered findings or trimmings only if they are each less than 1 inch in width and used in the production of brassieres.

Certain Interlinings General Rule: An article otherwise eligible for preferential treatment shall not be ineligible for such treatment because the article contains certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings) does not exceed 25 percent of the cost of the components of the assembled article. Interlinings eligible for the treatment described above 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.

De Minimis Rule: An article otherwise eligible for preferential treatment shall not be ineligible for such treatment because the article contains fibers or yarns not wholly formed in the United States or one or more beneficiary Caribbean Basin countries if the total weight of all such fibers and yarns is not more than 7 percent of the total weight of the article. An apparel article containing elastomeric yarns shall be eligible for preferential tariff treatment only if such yarns are wholly formed in the United States.

Special Origin Rule: For purposes of subheadings 9802.00.8044, 9820.11.03, 9820.11.06 and 9820.11.18, an apparel article otherwise eligible for preferential treatment under such subheadings shall not be ineligible for such treatment because

the article contains nylon filament yarn (other than elastomeric yarn) classifiable under subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5401.41.90, 5402.51.00 or 5402.61.00 of the HTSUS if the origin of the yarn is from Canada, Mexico or Israel.

VERIFICATION OF CLAIMS FOR PREFERENTIAL TARIFF TREATMENT UNDER CBTPA (19 CFR 10.225 – 10.227)

A claim for preferential tariff treatment must be based on a valid Certificate of Origin that is in the possession of the importer at the time that the claim is made. The decision to grant preferential tariff treatment is the responsibility of the U.S. Customs Service in compliance with the eligibility criteria. Importers should be prepared to provide the Certificate of Origin to confirm qualification within 30 days. Customs officers at the ports should request the Certificate of Origin from the importer to confirm qualification. Backup documentation such as mill invoices may also be requested from the importer. 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 19 CFR 163;
- 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 the 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.

Failure to provide either the Certificate of Origin or the requested documentation will result in the denial of the claim.

SPECIAL ACCESS PROGRAM AND QUOTA/VISA REQUIREMENTS

Merchandise that qualifies under CBTPA will be exempt from quota, visa requirements, guaranteed access levels (GAL), and GAL certificate requirements. Please refer to TBT-00-026 for more complete instructions.

OTHER ISSUES

Textile and apparel articles entered at the normal duty rates because the importer did not possess a valid Certificate of Origin to make a claim, that have met the above provisions, can avail themselves of all the available post entry procedures with the exception of NAFTA 520 (d).

At this time, claims for HTSUS number 9820.11.09 can not be accepted. You will be advised by a QBT when this provision becomes available. Until that time, all entries must be filed as type "01." Post entry amendments will be accepted for these entries once the QBT is issued.

Entries for articles classified in the following HTSUS numbers can be filed ABI:

9802.00.8044
9802.00.8046
9820.11.03
9820.11.06
9820.11.12
9820.11.15
9820.11.18
9820.11.21
9820.11.24
9820.11.27
9820.11.30

For merchandise reported utilizing CBTPA under a HTSUS 9820 classification, the value for the articles should be reported in the HTSUS chapter 1-97 classification. No value should be reflected in the HTSUS 9820 classification.

ACTION:

With the exceptions noted above, for imports that were entered on or after October 2, 2000, claims for preferential tariff treatment under CBTPA may be made if all necessary requirements are met for the following countries:

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| Belize | Haiti |
| Costa Rica | Honduras |
| Dominican Republic | Jamaica |
| El Salvador | Nicaragua |
| Guatemala | Panama |

INFORMATION:

If you have any questions concerning this trade program with respect to textiles and apparel products, please call Susan Thomas at (202) 927-3719, Gina Tayler at (202) 927-4882, Cherie Parsons at (202) 927-7002 or Bob Abels at (202) 927-1959.

/s/

Elizabeth G. Durant

cc: Executive Director, Field Operations