

November 8, 2002

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TO : Directors, Field Operations

FROM : Executive Director, Trade Compliance and Facilitation
Office of Field Operations

SUBJECT: TBT-02-035 Implementation Information for the Andean
Trade Promotion and Drug Eradication Act (ATPDEA) for
Textile and Apparel Products

BACKGROUND:

Title XXXI of the Trade Act of 2002 (“the Act”), which was signed into law by President Bush on August 6, 2002, authorized the expansion of trade benefits to designated countries in the Andean region. This trade program provides for the entry of specific textile and apparel articles free of duty and free of any quantitative restrictions, as well as other benefits to non-textile products. Presidential Proclamation 7616, which was signed on October 31, 2002 and published in the Federal Register (67 FR 67283) on November 5, 2002, implemented the ATPDEA and designated eligible countries and Harmonized Tariff Schedule (HTSUS) numbers.

This notice is to address the requirements for the entry of textile and apparel products under the ATPDEA. Interim Customs regulations are anticipated to be published within a few weeks.

Section 3103 of the Act outlines the treatment of certain textile and apparel articles for ATPDEA. Wearing apparel articles that meet the specific preferential groupings 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 ATPDEA TREATMENT

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

1. The designated beneficiary country has satisfied the requirements relating to the implementation of procedures and requirements similar to those in Chapter 5 of the North American Free Trade Agreement (NAFTA). The following countries have been identified as being an eligible beneficiary country:

Bolivia	Colombia
Ecuador	Peru

2. The good is classified under HTSUS tariff item numbers 9802.00.8048 or 9821.11, along with the associated chapter 1-97 number. **For the list of 9802.00.8048 and 9821.11 HTSUS numbers, refer to Preferential Groupings listed below,**
3. An ATPDEA 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 certificate of origin format is still in the developmental stage and will be available when the interim regulations are published. The format will be similar to the CBTPA and AGOA certificates.

Until the certificate of origin becomes available, exporters should provide importers certificates with the following information:

1. Exporter Name and Address;
2. Producer Name and Address;
3. Importer Name and Address;
4. Description of Article;
5. Preference Group (Please see the preference grouping descriptions below for more information);
6. U.S./Andean Fabric Producer Name and Address;
7. U.S./Andean Yarn Producer Name and Address;
8. Handloomed, Handmade, or Folklore Article, if applicable;
9. Name of Short Supply Fabric or Yarn, if applicable;
10. Authorized Signature;
11. Company Name;
12. Printed or Typed Name;
13. Title;
14. Date Signed;
15. Blanket Period, if applicable; and
16. Telephone and Facsimile Numbers.

Importers are required to maintain this information, as is required with a certificate of origin. An administrative notice will be issued when the certificate format has been finalized and a sample will appear in the interim regulations.

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 that is similar to that for CBTPA, 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 6406.99.15 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. At this time, visa requirements have not been eliminated for Colombia or Peru.

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 ATPDEA 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 ATPDEA may be made if the textile or apparel article qualifies under one of these groupings:

- A. Apparel articles sewn or otherwise assembled in one or more beneficiary ATPDEA countries, or in the United States, or both, from fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or in one or more beneficiary ATPDEA countries (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the HTSUS), provided that, if such apparel articles are assembled from knitted or crocheted or woven fabrics, all dyeing, printing and finishing of the fabrics is carried out in the United States. **(9821.11.01)**
- B. Apparel articles sewn or otherwise assembled in one or more beneficiary ATPDEA countries, or the United States, or both, from fabrics or fabric components formed or components knit-to-shape in one or more beneficiary ATPDEA countries, from yarns wholly formed in one or more beneficiary ATPDEA countries, if such fabrics (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the HTSUS) or components are in chief value of llama, alpaca, or vicuna. **(9821.11.04)**
- C. Apparel articles sewn or otherwise assembled in one or more beneficiary ATPDEA countries, or the United States, or both, without regard to the source of the fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for entry as a good of Canada or a good of Mexico under the terms of general note 12 (t) of the HTSUS. **(9821.11.07)**

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, (see general note 12[t], chapter 62, chapter rule 2 [A]),
- e) fine wale corduroy, (see general note 12[t], chapter 62, chapter rule 2 [B]),
- f) *Harris Tweed*, (see general note 12[t], chapter 62, chapter rule 2 [C]),
- 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.SR30, subheading rule a-i).

See TBT-01-004-01 for more information on short supply fabrics and yarns.

- D. Apparel articles sewn or otherwise assembled in one or more beneficiary ATPDEA countries, or the United States, or both, from fabrics or yarns designated by the appropriate U.S. Government authority in the Federal Register as fabrics or yarns not available in commercial quantities in the United States, under any terms as such authority may provide **(9821.11.10)**

To date, no such fabrics have been identified under ATPDEA.

- E. Apparel articles sewn or otherwise assembled in one or more beneficiary ATPDEA countries, or the United States, or both from a combination of fabrics, fabric components, knit-to-shape components, or yarns described in two or more subheadings from 9821.11.01 through 9821.11.10, inclusive (Groupings A through D). **(9821.11.13)**

- F. Handloomed, handmade or folklore textile and apparel goods, under the terms of U.S. note 3 (b) to subchapter XXI. **(9821.11.16)**

To date, no such agreements have been established.

- G. Brassieres classifiable in subheading 6212.10 of the HTSUS, both cut and sewn or otherwise assembled in the United States, or one or more beneficiary ATPDEA countries, or both, subject to provisions in subchapter XXI, U.S. note 3(c) of the HTSUS. **(9821.11.19)**

- H. Textile luggage assembled in one or more beneficiary ATPDEA countries from fabric cut in one or more beneficiary ATPDEA countries from fabric wholly formed in the United States from yarns wholly formed in the United States. **(9821.11.22)** and

Textile luggage assembled in one or more beneficiary ATPDEA countries from fabric wholly formed and cut in the United States from yarns wholly formed in the United States. **(9802.00.8048)**

- I. Apparel articles sewn or otherwise assembled in one or more beneficiary ATPDEA countries from fabrics or from fabric components formed or from components knit-to-shape in one or more beneficiary ATPDEA countries, from yarns wholly formed in the United States or in one or more beneficiary ATPDEA countries (including fabrics not formed from yarns, if such fabrics are classifiable in heading 5602 or 5603 of the HTSUS and are formed in one or more beneficiary ATPDEA countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in subheadings 9821.11.01 through 9821.11.10, inclusive. **(9821.11.25)**

LIMITATIONS ON BENEFITS

Imports of apparel articles under subheading 9821.11.25 shall be limited, in the one-year period beginning on October 1, 2002, and in each of the 4 succeeding 1-year periods, to an amount not to exceed the applicable percentage of the aggregate square meter equivalents of all apparel articles imported into the United States in the preceding 12-month periods for which data are available. Please see the U.S. note 3(d) to subchapter XXI in the HTSUS for the specific quantities. A QBT will be issued with reporting instructions.

DEFINITIONS

Wholly Formed - when used with reference to yarns, 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".

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, hooks and eyes, snaps, buttons, 'bow buds', decorative lace trim, elastic strips, zippers (including zipper tapes), labels, and other similar products.

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 yarns not wholly formed in the United States or one or more beneficiary ATPDEA countries if the total weight of all such yarns is not more than 7 percent of the total weight of the article.

Special Origin Rule - For purposes of subheadings 9821.11.01 through 9821.11.13, inclusive and subheading 9821.11.25, an apparel article otherwise eligible for preferential treatment under such subheadings shall not be ineligible 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, 5402.41.90, 5402.51.00 or 5402.61.00 of the HTSUS that is entered free of duty as a product of Israel under the terms of general note 8 to the HTSUS or as a good of Canada or a good of Mexico under the terms of general note 12 to the HTSUS.

VERIFICATION OF CLAIMS FOR PREFERENTIAL TARIFF TREATMENT UNDER ATPDEA

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. Importers should be prepared to provide the Certificate of Origin to confirm qualification within 30 days of a request. 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 beneficiary ATPDEA 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 to document the use of U.S. or ATPDEA beneficiary country 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. Please see note 3 under "Entry Requirements for Claiming ATPDEA Treatment" for information regarding the availability of the certificate of origin.

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 applicable post entry procedures.

For merchandise reported utilizing ATPDEA under a subheading 9821 classification, the value for the articles should be reported in the HTSUS chapter 1-97 classification. No value should be reflected in the HTSUS 9821 classification.

ACTION:

For qualifying merchandise entered, or withdrawn from warehouse, for consumption, on or after October 31, 2002, claims for preferential tariff treatment under ATPDEA may be made if all necessary requirements are met for the following countries:

Bolivia	Columbia
Ecuador	Peru

INFORMATION:

Please pass this memorandum to Port Directors, Assistant Port Directors, Import Specialists, Inspectors, Entry Specialists, Importers, Brokers, and Other Interested Parties.

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

/signed/

Janet L. Labuda for
Elizabeth G. Durant