

## ASSESSMENT OF DUTY

### 13. Dutiable Status Of Goods

#### Rates Of Duty

All goods imported into the United States are subject to duty or duty-free entry in accordance with their classification under the applicable items in the Harmonized Tariff Schedule of the United States. An annotated loose-leaf edition of the tariff schedule may be purchased from the U.S. Government Printing Office, Washington, DC 20402. (See 19 U.S.C. 1202.)

When goods are dutiable, *ad valorem*, specific, or compound rates may be assessed. An *ad valorem* rate, which is the type of rate most often applied, is a percentage of the value of the merchandise, such as five percent *ad valorem*. A specific rate is a specified amount per unit of weight or other quantity, such as 5.9 cents per dozen. A compound rate is a combination of both an *ad valorem* rate and a specific rate, such as 0.7 cents per kilo plus 10 percent *ad valorem*.

#### Free of Duty or Dutiable

Rates of duty for imported merchandise may vary depending upon the country of origin. Most merchandise is dutiable under the most-favored-nation—now referred to as *normal trade relations*—rates in the General column under column 1 of the tariff schedule. Merchandise from countries to which these rates have *not* been extended is dutiable at the full or “statutory” rates in column 2 of the tariff schedule.

Free rates are provided for many subheadings in columns 1 and 2 of the tariff schedule. Duty-free status is also available under various conditional exemptions which are reflected in the *Special* column under column 1 of the tariff schedule. It is the importer’s burden to show eligibility for a conditional exemption from duty.

One of the more frequently applied exemptions from duty occurs under the Generalized System of Preferences (GSP). GSP-eligible merchandise qualifies for duty-free entry when it is from a beneficiary developing country and meets other requirements as discussed in Chapter 17. Other exemptions are found under the subheadings in Chapter 98 of the tariff schedule. These subheadings include, among other provisions, certain personal exemptions, exemptions for articles for scientific or other institutional purposes, and exemptions for returned American goods.

#### Rulings On Imports

CBP makes its decision on the dutiable status of merchandise when the entry is liquidated after the entry documents have been filed. When advance information is needed, do not depend on a small “trial” or “test” shipment because there is no guarantee that the next shipment will receive the same tariff treatment. Small importations may slip by, particularly if they are processed under informal procedures that apply to small shipments or in circumstances warranting application of a flat rate. An exporter,

importer, or other interested party may get advance information on any matter affecting the dutiable status of merchandise by writing to the port director where the merchandise will be entered or to:

Director, National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 11th Floor  
New York, New York 10119

or to:

U.S. Customs and Border Protection  
Attention: Office of Regulations and Rulings  
Washington, DC 20229

Detailed information on the procedures for the issuance of administrative rulings is given in 19 CFR Part 177.

### **Binding Decisions**

While you will find that, for many purposes, CBP ports are your best sources of information, informal information obtained on tariff classifications is not binding. Under 19 CFR part 177, the importing public may obtain a binding ruling, which can be relied upon for placing or accepting orders or for making other business determinations, under Chapters 1 through 97 of the Harmonized Tariff Schedule or by writing to:

National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 11th Floor  
New York, New York 10119

The ruling will be binding at all ports of entry unless revoked by the CBP Office of Regulations and Rulings.

The following information is required in ruling requests:

- The names, addresses and other identifying information of all interested parties (if known) and the manufacturer ID code (if known),
- The name(s) of the port(s) at which the merchandise will be entered (if known),
- A description of the transaction; for example, a prospective importation of (merchandise) from (country),
- A statement that there are, to the importer's knowledge, no issues on the commodity pending before CBP or any court, and

- A statement as to whether classification advice has previously been sought from a CBP officer, and if so, from whom, and what advice was rendered, if any.

A request for a tariff classification should include the following information:

- A complete description of the goods. Send samples, if practical, sketches, diagrams, or other illustrative material that will be useful in supplementing the written description,
- Cost breakdowns of component materials and their respective quantities shown in percentages, if possible,
- A description of the principal use of the goods, as a class or kind of merchandise, in the United States,
- Information as to commercial, scientific or common designations, as may be applicable, and
- Any other information that may be pertinent or required for the purpose of tariff classification.

To avoid delays, your request should be as complete as possible. If you send a sample, do not rely on it to tell the whole story. Also, please note that samples may be subjected to laboratory analysis, which is done free of charge. If a sample is destroyed during laboratory analysis, however, it cannot be returned.

Information submitted and incorporated in response to a request for a CBP decision may be disclosed or withheld in accordance with the provisions of the Freedom of Information Act, as amended 5 U.S.C. 552, 19 CFR 177.8(a)(3).

### **Protests**

The importer may disagree with the dutiable status after the entry has been liquidated. A decision at this stage of the entry transaction is requested by filing a protest and application for further review on CBP Form 19. For entries filed before December 18, 2006, the time limit is within 90 days after liquidation, but for entries filed after that date, it is now 180 days (see CFR part 174; see 19 USC 1514(c)(3) as amended by section 2103(2)(B), Pub. L.108-429. The same legislation also eliminated the 1 year to file protests for clerical errors and mistakes of fact for entries after 12/18/04). If CBP denies a protest, the adverse decision may be appealed to the U.S. Court of International Trade.

### **Liability For Duties**

There is no provision under which U.S. duties or taxes may be prepaid in a foreign country before exportation to the United States. This is true even for gifts sent by mail.

In the usual case, liability for the payment of duty becomes fixed at the time an entry for consumption or for warehouse is filed with CBP. The obligation for payment is upon the person or firm in whose name the entry is filed. When goods have been entered for warehouse, liability for paying duties may be transferred to any person who purchases the goods and desires to withdraw them in his or her own name.

Paying a customs broker will not relieve the importer of his or her liability for customs charges (duties, taxes, and other debts owed CBP) should those charges not be paid by the broker. Therefore, if the importer pays the broker by check, he or she should give the broker a separate check, made payable to "U.S. Customs and Border Protection" for those customs charges, which the broker will then deliver to CBP.

If the entry is made in the name of a customs broker, the broker may obtain relief from statutory liability for the payment of increased or additional duties found due if (1) the actual owner of goods is named, and (2) the owner's declaration whereby the owner agrees to pay the additional duty and the owner's bond are both filed by the broker with the port director within 90 days of the date of entry.

### **14. Containers or Holders**

CBP designates such items as lift vans, cargo vans, shipping tanks, pallets and certain articles used to ship goods internationally as *instruments of international traffic*. So long as this designation applies, these articles are not subject to entry or duty when they arrive, whether they are loaded or empty. Other classes of merchandise containers may also be designated as instruments of international traffic upon application to the Commissioner of CBP for such a designation. If any article so designated is diverted to domestic use, however, it must be entered and duty paid, if applicable.

Containers specially shaped or fitted to contain a specific article or set of articles, suitable for long term use and entered with the articles for which they are intended, are classifiable with the accompanying articles if they are of a kind normally sold therewith. Examples of such containers are: camera cases, musical instrument cases, gun cases, drawing instrument cases, and necklace cases. This rule does not apply to containers that give the importation as a whole its essential character.

Subject to the above rule, packing materials and packing containers entered with goods packed in them are classified with these goods if they are of a kind normally used

for packing such goods. However, this does not apply to packing materials or containers that are clearly suitable for repetitive use.

## **15. Temporary Free Importations**

### **Temporary Importation Under Bond (TIB)**

Goods of the types enumerated below, when not imported for sale or for sale on approval, may be admitted into the United States under bond, without the payment of duty, for exportation within one year from the date of importation. Generally, the amount of the bond is double the estimated duties. The one-year period for exportation may, upon application to the port director, be extended for one or more further periods which, when added to the initial one year, shall not exceed a total of three years. There is an exception in the case of articles covered in item 14: the period of the bond may not exceed six months and may not be extended.

Merchandise entered under TIB must be exported or destroyed before expiration of the bond period, or any extension, to avoid assessment of liquidated damages in the amount of the bond.

All goods entered under TIB are subject to quota compliance.

### **Classes Of Goods**

- (1) Merchandise to be repaired, altered, or processed (including processes which result in an article being manufactured or produced in the United States), provided that the following conditions are met:

The merchandise will not be processed into an article manufactured or produced in the United States if the article is:

- Alcohol, distilled spirits, wine, beer, or any dilution or mixture of these,
- Perfume or other commodity containing ethyl alcohol, whether denatured or not,
- A product of wheat.

If merchandise is processed and results in an article being manufactured or produced in the United States other than those described above:

- A complete accounting will be made to CBP for all articles, wastes, and irrecoverable losses resulting from the processing, and
- All articles will be exported or destroyed under CBP supervision within the bonded period. Valuable waste must also be exported or so destroyed unless duty, if applicable, is paid.

- (2) Models of women's wearing apparel imported by manufacturers for use solely as models in their own establishments; these articles require quota compliance.
- (3) Articles imported by illustrators and photographers for use solely as models in their own establishments to illustrate catalogs, pamphlets, or advertising matter.
- (4) Samples solely for use in taking orders for merchandise; these samples require quota compliance.

- (5) Articles solely for examination with a view to reproduction or for examination and reproduction (except photoengraved printing plates for examination and reproduction); and motion-picture advertising films.
- (6) Articles intended solely for testing, experimental, or review purposes, including plans, specifications, drawings, blueprints, photographs, and articles for use in connection with experiments or for study. If articles under this category are destroyed in connection with the experiment or study, proof of such destruction must be presented to satisfy the obligation under the bond to export the articles.
- (7) Automobiles, motorcycles, bicycles, airplanes, airships, balloons, boats, racing shells, and similar vehicles and craft, and the usual equipment of the foregoing, if brought temporarily into the United States by nonresidents for the purpose of taking part in races or other specific contests. Port directors may defer the exaction of a bond for a period not to exceed 90 days after the date of importation for vehicles and craft to take part in races or other specific contests for other than money purposes. If the vehicle or craft is not exported or the bond is not given within the period of such deferment, the vehicle or craft shall be subject to forfeiture.
- (8) Locomotives and other railroad equipment brought temporarily into the United States for use in clearing obstructions, fighting fires, or making emergency repairs on railroads within the United States or for use in transportation otherwise than in international traffic when the Secretary of the Treasury finds that the temporary use of foreign railroad equipment is necessary to meet an emergency. Importers can expedite approval of a request for temporary importation to meet an emergency by including evidence of the existence of the emergency, such as news reports.
- (9) Containers for compressed gases, filled or empty, and containers or other articles used for covering or holding merchandise (including personal or household effects) during transportation and suitable for reuse for that purpose.
- (10) Professional equipment, tools of trade, repair components for equipment or tools admitted under this item, and camping equipment imported by or for nonresidents for the nonresident's use while sojourning temporarily in the United States.
- (11) Articles of special design for temporary use exclusively in connection with the manufacture or production of articles for export.
- (12) Animals and poultry brought into the United States for the purpose of breeding, exhibition, or competition for prizes, and the usual equipment therefor.
- (13) Works of free fine arts, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought into the United States by professional artists, lecturers, or scientists arriving from abroad for use by them for exhibition and in illustration,

promotion, and encouragement of art, science or industry in the United States.

- (14) Automobiles, automobile chassis, automobile bodies, cutaway portions of any of the foregoing, and parts for any of the foregoing, finished, unfinished, or cutaway, when intended solely for show purposes. These articles may be admitted only on condition that the Secretary of the Treasury has found that the foreign country from which the articles were imported allows or will allow substantially reciprocal privileges with respect to similar exports to that country from the United States. If the Secretary finds that a foreign country has discontinued or will discontinue the allowance of such privileges, the privileges under this item shall not apply thereafter to imports from that country.

### **Relief From Liability**

Relief from liability under bond may be obtained in any case in which the articles are destroyed under CBP supervision, in lieu of exportation, within the original bond period. However, in the case of articles entered under item 6, destruction need not be under CBP supervision where articles are destroyed during the course of experiments or tests during the bond period or any lawful extension, but satisfactory proof of destruction shall be furnished to the port director with whom the customs entry is filed.

### **ATA Carnet**

ATA stands for the combined French and English words “Admission Temporaire—Temporary Admission.” ATA carnet is an international customs document that may be used for the temporary duty-free importation of certain goods into a country in lieu of the usual customs documents required. The carnet serves as a guarantee against the payment of customs duties that may become due on goods temporarily imported and not reexported. Quota compliance is required on merchandise subject to quota; for example, textiles are subject to quota and visa requirements.

A carnet is valid for one year. The traveler or businessperson, however, may make as many trips as desired during the period the carnet is valid provided he or she has sufficient pages for each stop.

The United States currently allows ATA carnets to be used for the temporary admission of professional equipment, commercial samples, and advertising material. Most other countries allow the use of carnets for the temporary admission of these goods and, in some cases, other uses of the ATA carnet are permitted.

Local carnet associations, as members of the International Bureau of the Paris-based International Chamber of Commerce, issue carnets to their residents. These associations guarantee the payment of duties to local customs authorities should goods imported under cover of a foreign-issued carnet not be reexported. In the United States, CBP has designated the U.S. Council of the International Chamber of Commerce, located at 1212 Avenue of the Americas,

New York, NY 10036, Tel. 212.354.4480, as the United States issuing and guaranteeing organization. The Council charges a fee for its service.

ATA carnets can be used in the following countries:

Algeria	Ivory Coast
Australia	Japan
Austria	Republic of South Korea
Belgium	Lebanon
Bulgaria	Luxembourg
Canada	Malaysia
Canary Islands	Malta
China	Mauritius
Croatia	Netherlands
Cyprus	New Zealand
Czech Republic	Norway
Denmark	Poland
Estonia	Portugal
Finland	Romania
France	Senegal
French Polynesia	Singapore
French West Indies	Slovakia
Germany	Slovenia
Gibraltar	South Africa
Greece	Spain
Hong Kong	Sri Lanka
Hungary	Sweden
Iceland	Switzerland
India	Thailand
Ireland	Turkey
Israel	United Kingdom
Italy	United States

Egypt and certain other countries have accepted the ATA convention, but have not implemented the use of carnets. As countries are being continuously added to the carnet system, please check with the U.S. Council if a country you wish to visit is not included in the above list.

## **16. The North American Free Trade Agreement (NAFTA)**

The provisions of the North American Free Trade Agreement (NAFTA) were adopted by the United States with enactment of the North American Free Trade Agreement Implementation Act of 1993 (107 Stat. 2057, P.L. 103-182). Nineteen Code of Federal Regulation (19 CFR) Parts 10, 12, 123, 134, 162, 174, 177, and 178 were amended, and new parts 102 and 181 of the CBP Regulations were developed to implement NAFTA's duty provisions.

NAFTA phased out tariffs on almost all “originating” goods traded between Canada and the United States by January 1, 2003, and provides for an additional 5-year phase-out period on certain sensitive commodities traded between Mexico and the United States.

Article 401 of NAFTA eliminates both tariffs and the merchandise processing fees for goods that “originate.” Transshipping goods through Mexico or Canada that were made in another country, or performing only minor processing or packaging operations on them in North America, will not invoke preferential NAFTA duty rates.

The term “originate” means those goods that meet the requirements of NAFTA Article 401. Article 401 defines “originate” in four ways:

1. Goods wholly obtained or produced entirely in the NAFTA region (these contain no foreign inputs);
2. Goods produced entirely in the NAFTA region exclusively from originating materials (these contain foreign materials that have been previously manufactured into originating materials);
3. Goods meeting an Annex 401 specific rule of origin such as a prescribed change in tariff classification, regional value content requirement; and in extremely limited instances,
4. Unassembled goods and goods classified with their parts, which do not meet the tariff-shift rule but contain 60 percent regional value content using the transaction-value method, or 50 percent using the net-cost method.

Annex 401 of NAFTA is codified in General Note 12(t) of the Harmonized Tariff Schedule of the United States and is available at [www.cbp.gov/nafta/rulesorg.htm](http://www.cbp.gov/nafta/rulesorg.htm).

### **Entry Procedures**

For NAFTA, as with other preferential trade programs, it is the importer’s responsibility to claim the benefits. In the United States, a NAFTA claim is made as follows:

- **NON-COMMERCIAL (PERSONAL) IMPORTATIONS**  
For a non-commercial importation of NAFTA goods, a NAFTA claim may be made in the United States without a certificate of origin or statement.
- **COMMERCIAL IMPORTATIONS, LOW-VALUE**  
In order to claim preferential tariff treatment on a commercial shipment of NAFTA goods valued at US \$2,500 or less, the entry packet must include the 19 CFR 181.22(d) statement certifying that the goods “originate” ([www.cbp.gov/nafta/docs/us/181sec1-1.html#181.21](http://www.cbp.gov/nafta/docs/us/181sec1-1.html#181.21)).
- **COMMERCIAL IMPORTATIONS, OTHER**  
The importer must have a valid NAFTA certificate of origin, signed by the

exporter or his agent, when claiming preferential tariff treatment on a commercial shipment of NAFTA goods valued at more than US \$2,500.

- **POST-IMPORTATION CLAIMS**

Importers who may not have a valid NAFTA certificate of origin, or who are unsure whether their goods “originate,” or who otherwise choose not to make a NAFTA claim at the time of entry summary have up to one year from the date of importation to make a post-importation claim.

### **Exporter’s Certificate Of Origin**

NAFTA Article 502 requires that an importer’s NAFTA claim be based on the exporter’s certificate of origin. This may be CBP Form 434, the Canadian B-232, or the Mexican Certificado de Origen. When making a NAFTA claim in the United States, the importer must have one of these three certificates of origin or a CBP-approved, privately printed or alternate certificate of origin. For a single shipment, the certificate of origin shall be annotated with the invoice number or other distinguishing marks. For multiple shipments of identical goods, the certificate shall be annotated with a blanket period of up to 12 months.

### **NAFTA Certificates Of Origin And NAFTA Claims Are Optional**

The exporter or producer is never obligated to provide a certificate of origin to a customer. However, since the importer may not claim NAFTA preferential tariff treatment without one, it is in the exporter or producer’s interest to provide it. By providing a certificate of origin, the producer is attesting that:

1. The goods originate,
2. He has the substantiating production and accounting documentation, and
3. He will make it available to the customs authorities upon request.

### **Country of Origin for Marking and Duty Purposes**

For goods processed in Canada, Mexico or the United States, NAFTA codified the concept of “substantial transformation,” the process by which a good’s country of origin is determined for marking and duty purposes. Even though a good may be sufficiently processed in Canada, Mexico or the United States to be marked with that country of origin, it may not be sufficiently manufactured to “originate” under the rules of origin for NAFTA tariff treatment purposes (Harmonized Tariff Schedule of the United States, General Note 12(t)). With certain limited exceptions, only originating goods benefit from NAFTA preferential treatment. For additional marking information, please see *NAFTA: A Guide to Customs Procedures*, available at [www.cbp.gov/nafta/nafta\\_new.htm](http://www.cbp.gov/nafta/nafta_new.htm) or 19 CFR 102 at [www.gpoaccess.gov/cfr/index.html](http://www.gpoaccess.gov/cfr/index.html).

### **Special Provisions For Sensitive Sectors**

The NAFTA Annex 401-origin criteria ensure that most textile- and apparel-related production occur in North America. The basic rule of origin for textiles and apparel is commonly referred to as “yarn forward.” This means that the yarn used to form the fabric must be spun in the NAFTA territory, and all subsequent processing must take place in North America. Textiles

and apparel of man-made filament fibers have an even more restrictive “fiber-forward” rule. Some apparel goods must additionally meet a “visible-lining rule,” meaning that certain linings must be woven or knit in North America.

### **Transshipment**

Goods that are entitled to NAFTA preferential duty rates by virtue of their originating status will lose that status if they leave customs control outside of North America or undergo any operation outside of North America other than unloading, reloading, or any other operation necessary to preserve them in good condition or to transport the goods to Canada, Mexico or the United States.

### **Repair Or Alteration**

Goods may be exported from one NAFTA country to another for repair or alteration and returned free of duty regardless of the origin of the goods. This provision does not apply to alterations that are part of a manufacturing process.

### **Territory**

With respect to the United States, the customs territory includes the 50 states, the District of Columbia, Puerto Rico and the foreign trade zones located therein.

Additional NAFTA information can be obtained in *NAFTA: A Guide to Customs Procedures*, available on line at [www.cbp.gov/nafta/nafta\\_new.htm](http://www.cbp.gov/nafta/nafta_new.htm) or from the Code of Federal Regulations at [www.cbp.gov/nafta/resource.htm](http://www.cbp.gov/nafta/resource.htm).

## **17. Generalized System Of Preferences (GSP)**

The Generalized System of Preferences (GSP) is a preferential program that provides duty-free treatment to products of beneficiary designated countries and territories. The program was authorized by the Trade Act of 1974 (19 U.S.C. 2461 et seq.) as a means of promoting economic development in the developing countries and was instituted on January 1, 1976. The GSP periodically expires and must be renewed by Congress to remain in effect. CBP provides the trade community with notification of these expirations and renewals.

### **ELIGIBLE ITEMS**

The GSP eligibility list contains a wide range of products classifiable under 3,400 different subheadings in the Harmonized Tariff Schedule of the United States (Tariff Schedule). These items are identified by the symbols “A”, “A\*”, or “A+” in the “Special” subcolumn under column 1 of the tariff schedule. Merchandise classifiable under a subheading designated in this manner may qualify for duty-free entry if imported into the United States directly from any of the designated countries and territories. Items identified by an “A\*” may be excluded from the exemption if imported from certain designated countries.

The list of countries and exclusions, as well as the list of GSP-eligible articles, will change from time to time. For example, countries immediately lose GSP eligibility upon joining

the European Union. Consult the *Federal Register* at [www.ustr.gov](http://www.ustr.gov) for the most current information regarding country and/or commodity eligibility. Click on the link to “Trade and Development” and then the link for the “USTR Reference Programs.” A GSP guidebook is available at [http://www.ustr.gov/assets/Trade\\_Development/Preference\\_Programs/GSP/asset\\_upload\\_file890\\_8359.pdf](http://www.ustr.gov/assets/Trade_Development/Preference_Programs/GSP/asset_upload_file890_8359.pdf).

Importers and other interested parties may obtain an advance ruling to determine whether a particular product is eligible for GSP treatment, see Chapter 13 for details regarding the issuance of administrative rulings.

### Claims

For commercial shipments requiring a formal entry, a claim for duty-free status is made under the GSP by declaring on the entry summary that the country of origin is a designated beneficiary developing country and by placing the symbol “A” as a prefix to the subheading of the tariff schedule for each article for which such treatment is claimed. Eligible merchandise will be entitled to duty-free treatment provided the following conditions are met:

- The merchandise must be the “product of” a beneficiary country. This requirement is satisfied when:
  - (1) The goods are wholly the growth, product, or manufacture of a beneficiary country, or
  - (2) When an article is produced from materials imported into the beneficiary developing country and those imported materials are substantially transformed into a new or different article of commerce in a beneficiary country. A statement to that effect shall be included on the commercial invoice.
- The merchandise must be imported *directly* from any beneficiary country into the customs territory of the United States.
- The cost or value of materials produced in the beneficiary developing country and/or the direct cost of processing performed there must be at least 35 percent of the appraised value of the goods.

The cost or value of materials imported into the beneficiary developing country may be included in calculating the 35-percent value-content requirement of the GSP only if such materials undergo a “double substantial transformation” in the beneficiary developing country. That is, such materials must be substantially transformed in the beneficiary developing country into a new and different intermediate article of commerce, which is then transformed a second time in the production of the final good. The phrase “direct costs of processing” refers to costs directly incurred in, or which can be reasonably allotted to, the processing of the article. Such costs include, but are not limited to: all actual labor costs involved with production of the good; dies, molds, tooling, and depreciation on machinery and equipment; research and development; and costs of inspecting and testing the merchandise. Profit and general expenses are not considered direct costs of processing. General expenses are those that cannot be allocated to the good or costs that do not relate to

production of the good, such as administrative salaries, insurance, advertising, and salaries for sales employees.

### **Sources Of Additional Information**

CBP rules and regulations on the GSP are incorporated in sections 10.171-10.178 of the CBP Regulations. Address any question you may have on the administrative or operational aspects of the GSP to:

CBP Trade Agreements Branch  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229

Requests for information concerning additions to or deletions from the list of merchandise eligible under the GSP, or changes to the list of beneficiary developing countries, should be directed to:

Chairman, Trade Policy Staff Subcommittee  
Office of U.S. Trade Representative  
600 17th St., NW  
Washington, DC 20506

### **GSP Independent Countries**

*[note: typesetter should have countries in two or three columns per page]*

Afghanistan  
Albania  
Algeria  
Angola  
Antigua and Barbuda  
Argentina  
Armenia  
Bahrain  
Bangladesh  
Barbados 1  
Belize<sup>1</sup>  
Benin<sup>2</sup>  
Bhutan  
Bolivia<sup>3</sup>

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1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

Bosnia and Hercegovina  
 Botswana 4  
 Brazil  
 Bulgaria  
 Burkina Faso  
 Burundi  
 Cambodia 5  
 Cameroon  
 Cape Verde  
 Central African Republic  
 Chad  
 Colombia 3  
 Comoros  
 Congo (Brazzaville)  
 Congo (Kinshasa)  
 Costa Rica  
 Côte d'Ivoire  
 Croatia  
 Djibouti  
 Dominica 1  
 Dominican Republic  
 Ecuador 3  
 Egypt  
 El Salvador  
 Equatorial Guinea  
 Eritrea  
 Ethiopia  
 Fiji  
 Gabon  
 Gambia, The  
 Georgia  
 Ghana  
 Grenada 1  
 Guatemala  
 Guinea  
 Guinea-Bissau 2

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4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

Guyana 1  
 Haiti  
 Honduras  
 India  
 Indonesia 5  
 Iraq  
 Jamaica 1  
 Jordan  
 Kazakhstan  
 Kenya  
 Kiribati  
 Kyrgyzstan  
 Lebanon  
 Lesotho  
 Macedonia, Former Yugoslav Republic of  
 Madagascar  
 Malawi  
 Mali <sup>2</sup>  
 Mauritania  
 Mauritius 4  
 Moldova  
 Mongolia  
 Mozambique  
 Namibia  
 Nepal  
 Niger <sup>4</sup>  
 Nigeria  
 Oman  
 Pakistan  
 Panama  
 Papua, New Guinea  
 Paraguay  
 Peru 3  
 Philippines 5  
 Romania

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4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

Russia  
 Rwanda  
 Saint Kitts and Nevis 1  
 Saint Lucia 1  
 Saint Vincent and the Grenadines <sup>1</sup>  
 Samoa  
 Sao Tome and Principe  
 Senegal 2  
 Seychelles  
 Sierra Leone  
 Solomon Islands  
 Somalia  
 South Africa  
 Sri Lanka  
 Suriname  
 Swaziland  
 Tanzania 4  
 Thailand <sup>5</sup>  
 Togo 2  
 Tonga  
 Trinidad and Tobago 1  
 Tunisia  
 Turkey  
 Tuvalu  
 Uganda  
 Uruguay  
 Uzbekistan  
 Vanuatu  
 Venezuela 3  
 Yemen, Republic of  
 Zambia  
 Zimbabwe

### **Non-Independent Countries and Territories**

Anguilla

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1

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

4 Member countries of the Southern Africa Development Community—SADC (treated as one country).

5 Association of South East Asian Nations—ASEAN (GSP-eligible countries only) treated as one country.

2 Member countries of the West African Economic and Monetary Union—WAEMU (treated as one country).

1 Member countries of the Caribbean Common Market—CARICOM (treated as one country).

3 Member countries of the Cartagena Agreement—Andean Group (treated as one country).

British Indian Ocean Territory  
Christmas Island (Australia)  
Cocos (Keeling) Island  
Cook Islands  
Falkland Islands (Islas Malvinas)  
Gibraltar  
Heard Island and McDonald Islands  
Montserrat <sup>1</sup>  
Niue  
Norfolk Island  
Pitcairn Island  
Saint Helena  
Tokelau  
Turks and Caicos Islands  
Virgin Islands, British  
Wallis and Funtuna  
West Bank and Gaza Strip  
Western Sahara

### **18. Caribbean Basin Initiative (CBI) and the Caribbean Basin Economic Recovery Act (CBERA)**

The Caribbean Basin Initiative (CBI) is a program that allows duty-free entry of certain merchandise from designated beneficiary countries or territories. This program was enacted by the United States as the Caribbean Basin Economic Recovery Act, (CBERA) which became effective January 1, 1984, and has no expiration date.

#### **Beneficiary Countries**

The following countries and territories have been designated as beneficiary countries for purposes of the CBI: *[printed in two columns]*

Antigua and Barbuda  
Aruba  
Bahamas  
Barbados  
Belize  
Costa Rica  
Dominica  
Dominican Republic  
El Salvador  
Grenada  
Guatemala

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Guyana  
Haiti  
Honduras  
Jamaica  
Montserrat  
Netherlands Antilles  
Nicaragua  
Panama  
Saint Kitts and Nevis  
Saint Lucia  
Saint Vincent and the Grenadines  
Trinidad and Tobago  
Virgin Islands, British

### **Eligible Items**

Most products from designated beneficiary countries may be eligible for CBI duty-free treatment. These items are identified by either an “E” or “E\*” in the Special column under column 1 of the Harmonized Tariff Schedule. Merchandise classifiable under a subheading designated in this manner may qualify for duty-free entry if imported into the United States directly from any of the designated countries and territories.

Merchandise from one or more of these countries, however, may be excluded from time to time over the life of the program. Also, the list of beneficiary countries may change from time to time as well. Therefore, importers should consult the latest edition of the *Harmonized Tariff Schedule of the United States* for the most up-to-date information on eligible commodities. General Note 7(a) in the latest edition of the Harmonized Tariff Schedule contains updated information on the current list of beneficiary countries.

### **Claims**

Merchandise will be eligible for CBI duty-free treatment only if the following conditions are met:

- The merchandise must have been produced in a beneficiary country. This requirement is satisfied when:
  1. The goods are wholly the growth, product, or manufacture of a beneficiary country, or
  2. The goods have been substantially transformed into a new or different article of commerce in a beneficiary country.
- The merchandise must be imported directly from any beneficiary country into the customs territory of the United States.
- For commercial shipments requiring a formal entry, a claim for preferential tariff treatment under CBI is made by showing that the country of origin is a designated beneficiary country and by inserting the letter “E” as a prefix to the applicable tariff schedule number on CBP Form 7501.

- At least 35 percent of the imported article's appraised value must consist of the cost or value of materials produced in one or more beneficiary countries and/or the direct costs of processing operations performed in one or more beneficiary countries. The Commonwealth of Puerto Rico and the U.S. Virgin Islands are defined as beneficiary countries for purposes of this requirement; therefore, value attributable to Puerto Rico or to the Virgin Islands may also be counted. The cost or value of materials produced in the customs territory of the United States other than Puerto Rico may also be counted toward the 35 percent value-added requirement, but only to a maximum of 15 percent of the imported article's appraised value.

The cost or value of materials imported into a beneficiary country from a non-beneficiary country may be included in calculating the 35 percent value-added requirement for an eligible article if the materials are first substantially transformed into new or different articles of commerce which are subsequently used as constituent materials in the production of the eligible article. The phrase "direct costs of processing operations" includes costs directly incurred or reasonably allocated to the production of the article; for example, the cost of actual labor, dies, molds, tooling, depreciation of machinery, research and development, inspection, and testing. Business overhead, administrative expenses and profit, and general business expenses like casualty and liability insurance, advertising, and salespeople's salaries, are not considered direct costs of processing operations.

### **CBI II Sections 215 and 222**

In addition to the origin rules enumerated above, the Customs and Trade Act of 1990 added new criteria for duty-free eligibility under the Caribbean Basin Initiative. First, articles that are the growth, product or manufacture of Puerto Rico and that are subsequently processed in a CBI beneficiary country may also receive duty-free treatment if the three following conditions are met:

- They are imported directly from a beneficiary country into the customs territory of the United States.
- They are advanced in value or improved in condition by any means in a beneficiary country.
- Any material added to the article in a beneficiary country must be a product of a beneficiary country or the United States.

In addition, articles that are assembled or processed in whole from U.S. components or ingredients (other than water) in a beneficiary country may be entered free of duty. Duty-free treatment will apply if the components or ingredients are exported directly to the beneficiary country, and the finished article is imported directly into the customs territory of the United States.

Importers and other interested parties may obtain an advance ruling to determine whether your commodity is eligible for CBI treatment, please see Chapter 13 for details regarding the

issuance of administrative rulings.

### Sources Of Additional Information

CBP rules and regulations regarding CBI are incorporated in sections 10.191-10.198 of the CBP Regulations. Address any questions you may have about CBI's administrative or operational aspects to the port director where the merchandise will be entered, or to:

Director, Trade Enforcement and Facilitation Division  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue, NW  
Washington, DC 20229



### ~~19. Andean Trade Preference Act (ATPA)/~~

### ~~Andean Trade Promotion and Drug Eradication Act (ATPDEA)~~

~~The Andean Trade Preference Act (ATPA) provides for the duty-free entry of certain merchandise from designated beneficiary countries. The United States enacted ATPA into law on December 4, 1991, and it expired on December 4, 2001. When the Trade Act of 2002 became law on December 4, 2001, it renewed ATPA through December 31, 2006, and introduced the new Andean Trade Promotion and Drug Eradication Act (ATPDEA) provision. ATPDEA expanded some trade benefits for textiles from ATPA beneficiary countries.~~

### ~~Beneficiary Countries~~

~~The following countries have been designated as ATPA/ATPDEA beneficiary countries:~~

~~Bolivia      Colombia      Ecuador      Peru~~

### ~~Eligible Items~~

~~When ATPA was renewed, portions of the Act were expanded into ATPDEA, which extends preferential treatment for merchandise previously excluded by ATPA. These include certain leather materials, watches and watch parts, petroleum and petroleum derivatives, tuna packaged in foil or other flexible packages, some footwear, and certain textile and apparel articles.~~

~~However, many products remain excluded from receiving preferential treatment, including certain textile and apparel items; rum and tafia; and above-quota imports of certain agricultural products like tuna in cans, syrups, sugars, and sugar products, which are subject to tariff-rate quotas.~~

~~Non-textile goods for which all ATPA countries are eligible for preferential treatment are identified by a "J" in the "Special" subcolumn under Column 1 of the Harmonized Tariff Schedule. Goods for which only some ATPA countries qualify for preferential treatment are identified by a "J\*." Goods that qualify for preferential treatment in the expanded ATPDEA provision are identified by "J+."~~

~~Certain textile and apparel goods may enter the United States free of duty or restrictions on quantity if they meet certain requirements. The textile and apparel goods eligible for preferential treatment are listed in Chapter 98, subchapter XXI of the Harmonized Tariff Schedule.~~

### **Rules Of Origin**

~~Commercial shipments from designated beneficiary countries that require formal entry may make a claim for preferential tariff treatment under ATPA/ATPDEA by entering the letter “J” on CBP Form 7501 (the entry summary) as a prefix to the appropriate tariff schedule number.~~

~~Non-textile merchandise will be eligible for ATPA/ATPDEA duty free treatment only if the following conditions are met:~~

- ~~• The merchandise must have been produced in a beneficiary country. This requirement is satisfied when:
 
  - ~~(1) The goods are wholly the growth, product, or manufacture of a beneficiary country, or~~
  - ~~(2) The goods have been substantially transformed into a new or different article of commerce in a beneficiary country.~~~~
- ~~• The merchandise must be imported directly from any beneficiary country into the customs territory of the United States.~~
- ~~• At least 35 percent of the article’s appraised value must consist of the cost or value of materials produced in one or more ATPA or CBI beneficiary countries and/or the direct costs of processing operations performed in one or more ATPA or CBI beneficiary countries. The Commonwealth of Puerto Rico and the U.S. Virgin Islands are defined as beneficiary countries for purposes of this requirement. In addition, the cost or value of materials produced in the customs territory of the United States (other than Puerto Rico) may be counted toward the 35 percent value added requirement, but only to a maximum of 15 percent of the appraised value of the imported article.~~

~~Certain textile and apparel goods may enter the United States free of duty or restrictions on quantity if they meet certain requirements. The textile and apparel goods eligible for preferential treatment are listed in Chapter 98, subchapter XXI of the Harmonized Tariff Schedule.~~

~~The cost or value of materials imported into ATPA or CBI beneficiary countries from non-beneficiary countries may be included when calculating the 35 percent value added requirement for an eligible article if the materials are first substantially transformed into new or different articles of commerce and are then used as constituent materials in producing the eligible article. The phrase “direct costs of processing operations” means costs directly incurred or reasonably allocated to producing the article, including the cost of actual labor, dies, molds, tooling, depreciation of machinery, research and development, inspection, and testing. Business~~

~~overhead, administrative expenses and profit, and other general business expenses like casualty and liability insurance, advertising, and salespeople's salaries, are not considered direct costs of processing operations.~~

~~Further information can be found at:~~

~~[cbp.gov/xp/cgov/import/international\\_agreements/atpa/](http://cbp.gov/xp/cgov/import/international_agreements/atpa/)~~

## **20. U.S.-Israel Free Trade Area Agreement (ILFTA)**

The United States-Israel Free Trade Area agreement was originally enacted to provide for duty-free treatment for merchandise produced in Israel to stimulate trade between the two countries. This program was authorized by the United States in the Trade and Tariff Act of 1984, became effective September 1, 1985, and has no termination date. The Harmonized Tariff Schedule was amended to include General Note 8 implementing the U.S.-Israel Free Trade Area Implementation Act.

The ILFTA Implementation Act was amended on October 2, 1996, authorizing the president to implement certain changes affecting the duty status of goods from the West Bank, Gaza Strip, and qualifying industrial zones (QIZs). Presidential Proclamation 6955 of November 13, 1996, created General Note 3(v) to implement the new program for these goods. Pursuant to General Note 3(v), duty-free treatment is allowed for products of the West Bank, Gaza Strip, or a QIZ, imported directly from the West Bank, Gaza Strip, a QIZ or Israel, provided certain requirements are met. Presidential Proclamation 6955 also modified the eligibility requirements for duty-free treatment of articles that are the product of Israel.

General Note 3(a)(v)(G) of the Harmonized Tariff Schedule defines a QIZ as any area that:

- 1) Encompasses portions of the territory of Israel and Jordan or Israel and Egypt;
- 2) Has been designated by local authorities as an enclave where merchandise may enter without payment of duty or excise taxes; and
- 3) Has been designated as a QIZ by the United States Trade Representative in a notice published in the *Federal Register*.

### **Eligible Items**

The ILFTA applies to a broad range of tariff items listed in the Harmonized Tariff Schedule and identified by "IL" in the "Special" column.

### **Products Of Israel**

An article imported into the customs territory of the United States is eligible for treatment as a "product of Israel" only if:

- The merchandise has been produced in Israel. This requirement is satisfied when
  - (1) The goods are wholly the growth, product, or manufacture of Israel, or
  - (2) The goods have been substantially transformed into a new or different article of commerce in Israel;

- That article is imported directly from Israel, the West Bank, Gaza Strip, or a QIZ into the customs territory of the United States;
- The sum of:
  - (1) The cost or value of the materials produced in Israel, the West Bank, Gaza Strip, or a QIZ, plus
  - (2) The direct costs of processing operations performed in Israel, the West Bank, Gaza Strip, or a QIZ

is not less than 35 percent of the appraised value of such article at the time it is entered. If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be applied toward determining the 35 percent.

### **Products of The West Bank, Gaza Strip, or a Qualifying Industrial Zone**

An article imported into the customs territory of the United States is eligible for treatment as a product of the West Bank, Gaza Strip, or a QIZ only if:

- The article is the growth, product, or manufacture of the West Bank, Gaza Strip or a QIZ,
- The article is imported directly from the West Bank, Gaza Strip, a QIZ or Israel into the customs territory of the United States,
- The sum of:
  1. The cost or value of the materials produced in the West Bank, Gaza Strip, a QIZ or Israel, plus
  2. The direct costs of processing operations performed in the West Bank, Gaza Strip, a QIZ or Israel

is not less than 35 percent of the appraised value of such article at the time it is entered. If the cost or value of materials produced in the customs territory of the United States is included with respect to an eligible article, an amount not to exceed 15 percent of the appraised value of the article at the time it is entered may be applied toward the 35 percent.

No article may be considered to meet these requirements by virtue of having undergone:

- Simple combining or packaging operations, or
- Mere diluting with water or another substance that does not materially alter the characteristics of the article.

The phrase “direct costs of processing operations” includes, but is not limited to:

- All actual labor costs involved in the growth, production, manufacture or assembly of the specific merchandise, including fringe benefits, on-the-job training and the costs of engineering, supervisory, quality control and similar

- personnel.
- Dies, molds, tooling and depreciation on machinery and equipment that are allocable to the specific merchandise.

Direct costs of processing operations do not include costs that are not directly attributable to the merchandise concerned or are not costs of manufacturing the product, such as:

1. Profit,
2. General expenses of doing business that are either not allocable to the specific merchandise or are not related to the growth, production, manufacture or assembly of the merchandise, such as administrative salaries, casualty and liability insurance, advertising and sales staff salaries, or commissions or expenses.

### **Certificate of Origin Form A**

The United Nations Conference on Trade and Development Certificate of Origin Form A is used as documentary evidence to support duty-free and reduced-rate claims for Israeli articles covered by a formal entry. It does not have to be produced at the time of entry, however, unless CBP requests it at that time.

Form A may be presented on an entry-by-entry basis or may be used as a blanket declaration for a period of 12 months. Form A can be obtained from the Israeli authorizing issuing authority or from:

United Nations Conference on Trade and Development  
Two U.N. Plaza  
Room 1120  
New York, NY 10017  
Tel. 212.963.6895

### **Informal Entries**

Form A is not required for commercial or non-commercial shipments covered by an informal entry. However, the port director may require other evidence of the country of origin as deemed necessary.

In order to avoid delays to passengers, the inspecting CBP officer will extend Israeli duty-free or reduced-rate treatment to all eligible articles accompanying the traveler if the available facts satisfy the officer that the merchandise concerned is a product of Israel. In such cases, Form A is not required.

### **Sources of Additional Information**

Questions about the administrative or operational aspects of the ILFTA should be addressed to:

Executive Director, Trade Compliance and Facilitation Division  
U.S. Customs and Border Protection  
Washington, DC 20229

Requests for information about ILFTA policy issues should be directed to:

Chairman, Trade Policy Staff Subcommittee  
Office of U.S. Trade Representative  
600 17th St., NW  
Washington, DC 20506.

## **21. U.S.-Jordan Free Trade Area Agreement (JFTA)**

The United States-Jordan Free Trade Area agreement went into effect on December 17, 2001, and provides for the elimination of tariffs on almost all qualifying goods within 10 years.

### **Eligible Items**

JFTA benefits apply to tariff items listed in the Harmonized Tariff Schedule and identified by “JO” in the Special column.

### **Eligibility Requirements, General**

An article imported into the customs territory of the United States is eligible for JFTA preference if:

- It was wholly obtained or produced entirely in Jordan with no foreign inputs; or
- It is a “product of” Jordan, and the sum of (1) the cost of the materials produced in Jordan, plus (2) the direct costs of processing performed in Jordan is not less than 35 percent of the article’s appraised value at the time it enters the commerce of the United States. Materials produced in the United States that do not to exceed 15 percent of the article’s appraised value may be applied toward the 35 percent threshold; and
- The article is imported directly into the United States.

### **Eligibility Requirements, Textiles And Apparel**

Textile and apparel articles, with exceptions, are subject to the same “substantial transformation plus 35 percent” value-content rule as non-textiles (see General Note 18(d)).

### **Qualified Industrial Zones**

The JFTA does not affect merchandise entered from a Qualifying Industrial Zone (QIZ). Because duty reductions for some products will be staged, importers may chose to continue entering qualifying merchandise under the QIZ, rather than under the JFTA.

### **Certification**

CBP does not require presentation of a certificate of origin. By making the preference claim, the importer is deemed to certify that the goods meet the requirements of the agreement.

### **Documentation**

The importer shall be prepared to submit to CBP a declaration setting forth the pertinent information concerning the article's production or manufacture and all supporting documentation upon which the declaration is based. This information must be retained in the importer's files for five years. The importer's failure to provide the declaration and/or sufficient evidentiary documentation will result in the claim's denial.

### **Merchandise Processing Fees**

The JFTA provides no exemption from payment of the merchandise processing fee.

### **Sources Of Additional Information**

Additional information is available on CBP's Website at:  
[www.cbp.gov/xp/cgov/import/international\\_agreements/free\\_trade/usjfta.xml](http://www.cbp.gov/xp/cgov/import/international_agreements/free_trade/usjfta.xml) or  
[www.cbp.gov/xp/cgov/import/textiles\\_and\\_quotas/](http://www.cbp.gov/xp/cgov/import/textiles_and_quotas/).

Information can also be found on the U.S. Trade Representative Website,  
[www.ustr.gov/Trade\\_Agreements/Bilateral/Jordan/Section\\_Index.html](http://www.ustr.gov/Trade_Agreements/Bilateral/Jordan/Section_Index.html).

### **References**

- Presidential Proclamation 7512, December 7, 2001,
- Public Law 107-43, September 28, 2001,
- Harmonized Tariff Schedule of the United States, General Note 18.

## **22. Compact of Free Association (FAS)**

FAS is a program providing for the duty-free entry of certain merchandise from designated freely associated states. (U.S. Pub. Law 99-239, Compact of Free Assoc. Act of 1985, 48 USC 1681 note. 59 Stat. 1031 and amended Dec. 17, 2003 by House Jt. Res. 63; U.S. Pub. Law 180-188)

The Compact of Free Association between the Federated States of Micronesia and the United States was initiated by negotiators in 1980 and signed in 1982. The Compact was approved by the citizens of the FSM in a plebiscite held in 1983. Legislation on the Compact was adopted by the U.S. Congress in 1986, and signed into law on November 13, 1986.

### **Beneficiary Countries**

The following freely associated states have been designated as beneficiary countries for purposes of the FAS:

Marshall Islands

Federated States of Micronesia  
Republic of Palau

### **Eligible Items**

The duty-free treatment is applied to most products from the designated beneficiaries. For commercial shipments requiring formal entry, a claim for duty-free status is made by placing the letter “Z” next to the eligible subheading. The following merchandise is excluded from the duty-free exemption:

- Textile and apparel articles that are subject to textile agreements.
- Footwear, handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not eligible for GSP treatment, discussed in Chapter 17, on April 1, 1984.
- Watches, clocks, and timing apparatus of Chapter 91 of the Harmonized Tariff Schedule (except such articles incorporating an opto-electronic display and no other type of display).
- Buttons of subheading 9606.21.40 or 9606.29.20 of the Harmonized Tariff Schedule.
- Tuna and skipjack, prepared or preserved, not in oil, in airtight containers weighing with their contents not more than 7 kilograms each, “in excess” of the consumption quota quantity allowed duty-free entry.
- Any agricultural product of Chapters 2 through 52 inclusive, that is subject to a tariff-rate quota, if entered in a quantity in excess of the in-quota quantity for such products.

### **Rules Of Origin**

Merchandise will be eligible for FAS duty-free treatment only if the following conditions are met:

- The merchandise must have been produced in the freely associated state. This requirement is satisfied when (1) the goods are wholly the growth, product, or manufacture of the freely associated state, or (2) the goods have been substantially transformed into a new or different article of commerce in the freely associated state.
- The merchandise must be imported directly from the freely associated state into the customs territory of the United States.
- At least 35 percent of the appraised value of the article imported into the United States must consist of the cost or value of materials produced in the beneficiary country. In addition, the cost or value of materials produced in the customs territory of the United States may be counted toward the 35 percent value-added requirement, but only to a maximum of 15 percent of the appraised value of the imported article. The cost or value of the materials imported into the freely associated state from a non-beneficiary country may be included in

calculating the 35 percent value-added requirement for an eligible article if the materials are first substantially transformed into new or different articles of commerce and are then used as constituent materials in the production of the eligible product.

### **Sources Of Additional Information**

Address any questions you may have about the administrative or operational aspects of the FAS to the port director where the merchandise will be entered or to:

Director  
Commercial Compliance Division  
U.S. Customs and Border Protection  
Washington, DC 20229.

### **23. AFRICAN GROWTH AND OPPORTUNITY ACT (AGOA)**

The African Growth and Opportunity Act provides duty-free treatment under the Generalized System of Preferences (GSP) for certain articles from sub-Saharan African countries that would normally be excluded from GSP provisions. Enacted May 18, 2000, as Title I of the Trade and Development Act of 2000 (P.L. 106-200, 114 Stat. 251), AGOA became effective on October 1, 2000 and was amended by the Trade Act of 2002. The expanded GSP treatment remains effective through September 30, 2008.

AGOA also provides for the duty-free, quantity-free entry of specific textile and apparel articles provided that strict conditions are met. This preferential treatment for eligible textiles and apparel is subject to certain limitations.

Non-textile, non-apparel AGOA claims are designated by inserting the symbol "D" in the "Rates of Duty 1-Special" column of the Harmonized Tariff Schedule for subheadings covering such articles. Textile and apparel claims are made by entering the appropriate Chapter 98 tariff number, details of which may be found in subchapter XIX of Chapter 98 of the Harmonized Tariff Schedule.

### **Beneficiary Countries**

There are three types of beneficiary-country designations under AGOA:

- Beneficiary sub-Saharan African countries;
- Lesser-developed beneficiary sub-Saharan African countries; and
- Beneficiary sub-Saharan African countries eligible for textile/apparel benefits.

The president will monitor and review annually the current or potential eligibility of sub-Saharan African countries to be designated as beneficiary countries. Thus, the list of such countries may change over the life of the program. Importers should consult General Note 16 of the latest edition of the Harmonized Tariff Schedule of the United States for the current

information on designated countries.

Countries designated as *beneficiary* sub-Saharan African countries for AGOA purposes are listed in General Note 16 of the Harmonized Tariff Schedule. Sub-Saharan African countries designated as *lesser-developed beneficiary* countries for AGOA purposes are listed in Chapter 98, subchapter XIX, U.S. Note 2(d), of the Harmonized Tariff Schedule. Countries that have established visa systems and can import textiles and apparel merchandise for purposes of AGOA are listed in Chapter 98, subchapter XIX, U.S. Note 1, of the Harmonized Tariff Schedule.

## **Eligible Items**

### *Expanded GSP Treatment*

The Trade Act of 1974 authorizes the president to provide duty-free treatment under the GSP to certain articles that would otherwise be excluded from such treatment. A variety of products have been designated as eligible for duty-free treatment for beneficiary sub-Saharan African countries, including:

- Some watches and clocks,
- Certain electronics,
- Certain steel and metals,
- Certain textiles and wearing apparel, and
- Certain semi-manufactured and manufactured glass products.

A complete listing of products eligible for duty-free treatment under AGOA is available on the Web at [www.agoa.gov](http://www.agoa.gov). The president may extend duty-free treatment to imports of essentially all products except textiles and apparel, as long as the products:

- Are the “growth, product or manufacture” of a beneficiary sub-Saharan African country,
- Are imported directly from a beneficiary sub-Saharan African country into the customs territory of the U.S.,
- Meet a value-added requirement, and
- The president determines that the products are not import-sensitive in the context of imports from beneficiary sub-Saharan African countries. Sub-Saharan African beneficiary countries are also exempted from competitive-need limitations.

Sub-Saharan African beneficiary countries are also exempted from competitive-need limitations.

### *Preferential Treatment for Certain Textile and Apparel Articles*

In order for textile or apparel articles to be eligible for preferential treatment, the beneficiary sub-Saharan African country must be designated as eligible for textile/apparel benefits. This designation requires that the United States determine whether the country has

satisfied the requirements of AGOA regarding that country's procedures to protect against unlawful transshipments (including an effective visa system) and the implementation of procedures and requirements similar in all material respects to the relevant procedures and requirements under Chapter 5 of the NAFTA. The United States Trade Representative will publish a *Federal Register* notice when it designates a country as eligible for preferential treatment. This information will be available on the Web at [www.ustr.gov](http://www.ustr.gov) and at [www.agoa.gov](http://www.agoa.gov).

AGOA provides duty-free and quota-free benefits to imports of certain textile and apparel articles produced in eligible sub-Saharan African countries. In most instances, these benefits are available regardless of the total volume of apparel exported from eligible countries to the United States. The six broad categories of textile and apparel articles that may receive preferential treatment are listed in Chapter 98, subchapter XIX of the Harmonized Tariff Schedule.

### **Additional sources of information**

The entire text of the AGOA agreement is available on the Web at [www.agoa.gov](http://www.agoa.gov).

CBP rules and regulations about AGOA are incorporated in sections 10.211-10.217 of the CBP Regulations. Additional regulations implementing the GSP provisions are incorporated in section 10.178 of the CBP Regulations. CBP regulations pertaining to AGOA are also available on the Web at [www.agoa.gov](http://www.agoa.gov).

For answers to specific questions or to request a ruling, send inquiries to:

Director  
National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 11th Floor  
New York, NY 10119

Further information regarding importing procedures is also available on the CBP Website, [cbp.gov/xp/cgov/import/international\\_agreements/](http://cbp.gov/xp/cgov/import/international_agreements/).

The Office of the United States Trade Representative has prepared an *African Growth and Opportunity Act Implementation Guide* available at the AGOA Website, [www.agoa.gov](http://www.agoa.gov). Questions about AGOA not covered in the guidebook may be directed to:

Office of African Affairs  
Office of the United States Trade Representative  
600 17<sup>th</sup> Street, NW  
Washington, DC 20508  
Tel. 202.395.9514  
Fax: 202.395.4505

Additional information on the GSP program is available at the United States Trade Representative Website, *www.ustr.gov*, and from the GSP Information Center, Office of the U.S. Trade Representative, at the above address, tel. 202.395.6971, and in Chapter 17 of this book.

Information on apparel cap, fabric and yarn not available in commercial quantities, and on hand-loomed, handmade and folklore articles is available from the Department of Commerce, Office of Textile and Apparel at *otexa.ita.doc.gov*.

#### **24. United States-Caribbean Basin Trade Partnership Act (CBTPA)**

The United States-Caribbean Basin Trade Partnership Act expands the trade benefits currently available to Caribbean and Central American countries under the Caribbean Basin Economic Recovery Act (CBERA; see Chapter 18.)

The CBTPA allows specific textile and apparel articles to enter the United States free of duty or restrictions on quantity, provided certain conditions are met. It also extends NAFTA standards of duty to non-textile articles that were previously excluded from duty-free treatment under the CBERA.

CBTPA's trade benefits apply during the transition period that began October 1, 2000, and ends either on September 30, 2008, or on the date on which a free-trade agreement enters into force between the United States and CBTPA beneficiary countries, whichever comes first. (See Title II of the Trade and Development Act of 2000 [P.L. 106-200, 114 Stat. 251], enacted May 18, 2000, for details.)

On August 6, 2002, the president signed into law the Trade Act of 2002, which made a number of changes to the textile and apparel provisions of paragraph (2)(A) of section 213(b) of the CBERA.

#### **Beneficiary Countries**

The list of beneficiary countries may change over the life of the program. A current listing of countries eligible for designation as beneficiary countries can be found in General Note 17 of the Harmonized Tariff Schedule.

CBTPA's enhanced trade benefits are available to countries designated as CBTPA beneficiary countries. To receive these benefits, CBTPA countries must have satisfied the trade pact's requirements that the eligible country has implemented procedures and requirements that are similar in all material respects to the relevant procedures and requirements under Chapter Five of NAFTA.

## **Eligible Items**

### *Preferential Treatment for Certain Textile and Apparel Articles*

Certain textile and apparel articles may enter the United States free of duty and restrictions on quantity. The textile and apparel articles eligible for preferential treatment are listed in Chapter 98 Sub Chapter XX of the Harmonized Tariff Schedule.

The CBP regulations that implement the CBTPA include specific documentary, procedural, and other requirements that must be met in order to obtain CBTPA benefits. The CBP regulations and General Note 17 of the HTS should be consulted *before* importing merchandise in order to ensure all requirements have been met.

## **NAFTA Parity**

Except for textile and apparel articles, the CBTPA allows NAFTA tariff treatment for goods previously excluded from the CBI program. Thus, imported footwear, canned tuna, petroleum and petroleum products, watches and watch parts, handbags, luggage, flat goods, work gloves and leather wearing apparel, *when qualifying as CBTPA originating goods*, are eligible for a reduction in duty equal to the rate given to Mexican products under the staged duty-rate reductions set forth in NAFTA.

## **Claims**

Articles that the president has designated as eligible for CBTPA treatment are those whose duty rate in the “Special” subcolumn is followed by the symbol “R” in Chapters 1 through 97 of the Harmonized Tariff Schedule. Whenever a rate of duty other than “free” appears in this subcolumn for any heading or subheading followed by the symbol “E” or “E\*,” and a lower rate of duty followed by the symbol “R” also appears in the subcolumn, an eligible article will receive the lower rate of duty.

### *Certain Beverages Made With Caribbean Rum*

The CBTPA provides duty-free treatment to certain liqueurs and spirituous beverages produced in the territory of Canada from rum that is the growth, product or manufacture of a CBTPA beneficiary country or of the U.S. Virgin Islands.

## **Sources of Additional Information**

CBP rules and regulations on the CBTPA are incorporated in Sections 10.221-10.228 and 10.231-10.237 of the CBP regulations. Additional information can be found on the CBP Website at [www.cbp.gov/xp/cgov/import/international\\_agreements/](http://www.cbp.gov/xp/cgov/import/international_agreements/) or at [http://www.cbp.gov/xp/cgov/import/international\\_agreements/](http://www.cbp.gov/xp/cgov/import/international_agreements/).

It is also necessary to consult General Note 17 of the Harmonized Tariff Schedule for specific requirements of CBTPA.

For answers to specific questions or to request a ruling, send inquiries to:

Director, National Commodity Specialist Division  
U.S. Customs and Border Protection  
One Penn Plaza, 10th Floor  
New York, NY 10019

Information on CBTPA may also be obtained from:

Office of the United States Trade Representative  
Office of the Western Hemisphere  
600 17th Street, NW  
Washington, DC 20508  
Tel: 202.395.5190  
Fax: 202.395.9675

Additional information on quantity limitations; fabric and yarn not available in commercial quantities; and hand-loomed, handmade, and folklore articles may be available at the Department of Commerce Office of Textile and Apparel Website at [otexa.ita.doc.gov](http://otexa.ita.doc.gov). The Department of Commerce also provides detailed information on the CBTPA at [www.mac.doc.gov/CBI/webmain/intro.htm](http://www.mac.doc.gov/CBI/webmain/intro.htm).

## **25. The U.S.-Chile Free Trade Agreement (US-CFTA)**

The U.S.-Chile Free Trade Agreement (US-CFTA) took effect January 1, 2004, with the enactment of the US-CFTA Implementation Act (P. L.108-77; 117 Stat. 909). (Presidential Proclamation 7746, the official announcement of US-CFTA, incorporates by reference Publication 3652 of the U.S. International Trade Commission. Publication 3652 amends the Harmonized Tariff Schedule by adding General Note 26, which implements the duty provisions of the US-CFTA. Title 19, Code of Federal Regulations is being amended to implement the US-CFTA.)

The US-CFTA eliminates duties on goods originating in Chile and the United States over a maximum transition period of 12 years. Under the schedule to eliminate duties, 85 percent of Chilean goods received immediate duty-free status. Duties on the remaining goods will phase out in four-, eight-, 10- and 12-year stages, although Chile and the United States may later choose to accelerate these phase-outs.

### **Eligible Items**

According to the rules set forth in the Agreement and incorporated into our domestic legislation as General Note 26 of the Harmonized Tariff Schedule, merchandise that originates in Chile or the United States will receive a reduced or free rate of duty. Goods that originate elsewhere and are merely transshipped through Chile will not be entitled to these benefits.

*Originating* is a term used to describe goods that meet the requirements of Article 4.1 of the Agreement. Article 4.1 defines *originating* as goods that meet one of the following conditions:

- The good is wholly obtained or produced entirely in the territory of Chile or the United States,
- The good is produced in the territory of Chile or the United States and meets the rule specified in Annex 4.1, through either a tariff shift or tariff-shift-plus-regional-value content rules, or
- The good is produced entirely in the Chile or the United States exclusively from originating materials.

Originating goods that subsequently undergo any operation outside of the territories of Chile or the United States other than unloading, reloading, or other processes necessary to preserve the condition of the good, will lose their originating status. Goods that have undergone simple combining or packaging operations or mere dilution with water or other substances will not be considered originating.

### **Entry Procedures**

Importers may claim preferential duty treatment for commercial shipments requiring a formal entry by prefixing “CL” to the tariff classification number on the CF 7501 (Entry Summary).

Pursuant to Article 4.13(7) of the Agreement, the United States does not require a certificate of origin when the value of the originating goods is US \$2,500 or less.

### **Certification Of Origin**

The US-CFTA requires the importer to substantiate the validity of a claim for preferential treatment. At CBP’s request, an importer must submit a certification of origin or other supporting documentation to demonstrate that the imported goods “originate,” as defined by the Act.

A US-CFTA certification of origin is not an official form, as it is in other trade agreements, and does not need to be in a prescribed format. The certification of origin may take many forms, such as a statement on company letterhead, a statement on a commercial invoice or supporting documentation. Whatever form or format is used, however, must contain the following data elements to demonstrate that the goods are US-CFTA originating goods:

- Name and address of the importer,
- Name and address of the exporter,
- Name and address of the producer,
- Description of good,
- Harmonized tariff classification number,
- Preference criterion,
- Commercial invoice number on single shipments,

- Identify the blanket period in “mm/dd/yyyy to mm/dd/yyyy” format (12-month maximum) for multiple shipments of identical goods,
- Authorized signature, company, title, telephone, fax, e-mail and certification date,
- Certification that the information is correct.

The certification of origin may cover a single entry or multiple entries in a period not to exceed 12 months. The importer must retain the certificate of origin and supporting documentation in the United States and must provide it to CBP upon request.

### **Sources Of Additional Information**

CBP has drafted regulations that implement the provisions of the US-CFTA. These may be found in sections 10.401 through 10.490, CBP regulations. Also, information has been posted on the CBP Website at: [www.cbp.gov/xp/cgov/import/international\\_agreements/](http://www.cbp.gov/xp/cgov/import/international_agreements/)

### **26. The U.S. – Singapore Free Trade Agreement (US-SFTA)**

The provisions of the U.S.-Singapore Free Trade Agreement Implementation Act (Public Law 108-78; 117 Stat. 948; 19 USC 3805 note) took effect on January 1, 2004. Upon implementation, the Harmonized Tariff Schedule was amended to include General Note 25, which contains specific information regarding the U.S.-Singapore Free Trade Agreement. The agreement provides for the immediate or staged elimination of duties and barriers to bilateral trade in goods and services originating in the United States and Singapore over a period of ten years. Customs regulations are being updated to implement the provisions of this agreement.

According to Section 202 of the US-SFTA Implementation Act, in general, non-textile goods shall qualify for preferential tariff treatment as a “product of Singapore” if:

- The good is wholly obtained or produced entirely in Singapore, the U.S. or both;
- Each non-originating material used in the production of the good imported from Singapore either:
  1. Undergoes an applicable change in tariff classification (tariff shift) specified in General Note 25(o) of the Harmonized Tariff Schedule as a result of production occurring entirely in Singapore, the United States or both or
  2. The good otherwise satisfies the applicable regional value content or other requirements specified in General Note 25(o).
- The good, as imported, is enumerated in General Note 25(m) as imported from Singapore, a provision known as the Integrated Sourcing Initiative.

A textile or apparel good must meet the terms of General Note 25 in order to receive the preferential tariff treatment under the US-SFTA.

### **Integrated Sourcing Initiative (ISI)**

Per Article 3.2(1) of the US-SFTA, certain information technology and medical products listed in General Note 25(m) may be considered originating goods for purposes of the Agreement when shipped between the United States and Singapore, regardless of whether they satisfy the applicable rule of origin. Singapore must be the country of export in order for ISI-eligible goods to receive benefits under the US-SFTA; however, the country of origin of the good may be any country. An ISI product does not qualify as “originating” simply by being imported into Singapore or the United States—shipment from one US-SFTA country to another is required to obtain originating status.

The ISI provision eliminates the requirement that these products must meet specific rules of origin under “tariff shift” or “regional value content” requirements. The only way an ISI material, component, or product would affect a regional-value-content calculation is if an ISI product is shipped from a non-FTA party (Malaysia, for example) to Singapore and then to the United States (and is held there without undergoing any processing) and then shipped back to Singapore where the ISI product is used as input for the manufacture of a non-ISI good.

Upon request, documents must be provided to CBP verifying that goods claiming preferential treatment under this ISI provision were exported directly from the country of Singapore. For purposes of ISI, the territory of Singapore is defined as its land territory, internal waters and territorial sea plus certain maritime zones. The goods must still be marked with the true country of origin—despite receiving originating status under US-SFTA.

### **Entry Procedures**

For commercial shipments requiring a formal entry, a claim for preferential tariff treatment may be filed at the time of entry summary by placing the symbol “SG” as a prefix to the Harmonized Tariff Schedule subheading for each good or line item for which treatment is being claimed. For non-originating apparel goods eligible for preferential treatment under a tariff-preference level (TPL), please refer to General Note 25 and Subchapter X of Chapter 99 of the Harmonized Tariff Schedule.

### **Customs Verification**

If CBP requests, the importer must submit a statement or supporting documentation containing informational data elements to demonstrate that the imported goods qualify for preferential tariff treatment. There is no official CBP form or required format for certification, and the statement may be submitted electronically.

Importers are required to maintain all records relating to the importation of US-SFTA goods for five years after the date of importation. These include, but are not limited to, records concerning the purchase of, cost of, value of and payment for the good, the purchase of, cost of, value of and payment for all materials used in the production of the good, and the production of the good in its exported form.

Further information on the U.S.-Singapore Free Trade Agreement is available at: [cbp.gov/xp/cgov/import/international\\_agreements/](http://cbp.gov/xp/cgov/import/international_agreements/).

Section 42 of the Duties Act provides for duty to not be charged twice on two dutiable transactions relating to the same transaction. Where duty is chargeable on a dutiable transaction such as a contract for sale of land, the subsequent transfer of land or declaration of trust will be considered a "no double duty"™ transaction (NDD) if it is in conformity with the initial dutiable transaction. See Duties Fact Sheet 'No Double Duty'. [Back to top.](#) What happens if I disagree with the assessment of duty? An assessment of duty on a deficiency will be issued to the person deemed responsible for the security of the oil at the time when the deficiency appears to have arisen. If at the end of the 14 day period you do not produce any licences to show they were valid during the default period, we will issue you with default licences and an assessment of duty for those default licence(s) issued.