

§ 10.237

referred to in paragraph (b)(4)(ii) of this section if the port director determined that a previously imported identical article covered by the Certificate did not qualify for preferential treatment.

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

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

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

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

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

Check One:

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

\_\_\_\_\_  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature and Date

(2) *Exception*. If the port director determines that an importation described in paragraph (d)(1) of this section forms part of a series of importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding a Certificate of Origin requirement under §§10.234 through 10.236, the port director will notify the importer in writing that for that importation the importer must have in his possession a valid Certificate of Origin to support the claim for preferential tariff treatment. The importer will have 30 calendar days from

the date of the written notice to obtain a valid Certificate of Origin, and a failure to timely obtain the Certificate of Origin will result in denial of the claim for preferential tariff treatment. For purposes of this paragraph, a “series of importations” means two or more entries covering articles arriving on the same day from the same exporter and consigned to the same person.

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

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

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

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

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

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

(1) Must have records that explain how the importer came to the conclusion that the article qualifies for preferential tariff treatment. Those records must include documents that

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

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

(3) Must have shipping papers that show how the article moved from the CBTPA beneficiary country to the United States. If the imported article was shipped through a country other than a CBTPA beneficiary country and the invoices and other documents from the CBTPA beneficiary country do not show the United States as the final destination, the importer also must have documentation that demonstrates that the conditions set forth in § 10.233(d)(3)(i) through (iii) were met; and

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

### Subpart F—Andean Trade Promotion and Drug Eradication Act

#### APPAREL AND OTHER TEXTILE ARTICLES UNDER THE ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT

SOURCE: Sections 10.241 through 10.248 issued by CBP Dec. 06-21, 71 FR 44574, Aug. 7, 2006, unless otherwise noted.

#### § 10.241 Applicability.

Title XXXI of Public Law 107-210 (116 Stat. 933), entitled the Andean Trade Promotion and Drug Eradication Act (ATPDEA), amended sections 202, 203, 204, and 208 of the Andean Trade Preference Act (the ATPA, 19 U.S.C. 3201-3206) to authorize the President to extend additional trade benefits to countries that are designated as beneficiary countries under the ATPA. Section

204(b)(3) of the ATPA (19 U.S.C. 3203(b)(3)) provides for the preferential treatment of certain apparel and other textile articles from those ATPA beneficiary countries which the President designates as ATPDEA beneficiary countries. The provisions of §§ 10.241 through 10.248 of this part set forth the legal requirements and procedures that apply for purposes of obtaining preferential treatment pursuant to ATPA section 204(b)(3) and Subchapter XXI, Chapter 98, HTSUS.

#### § 10.242 Definitions.

When used in §§ 10.241 through 10.248, the following terms have the meanings indicated:

*Apparel articles.* “Apparel articles” means goods classifiable in Chapters 61 and 62 and headings 6501, 6502, 6503, and 6504 and subheadings 6406.99.15 and 6505.90 of the HTSUS.

*Assembled or sewn or otherwise assembled in one or more ATPDEA beneficiary countries.* “Assembled” and “sewn or otherwise assembled” when used in the context of production of an apparel or other textile article in one or more ATPDEA beneficiary countries has reference to a joining together of two or more components that occurred in one or more ATPDEA beneficiary countries, whether or not a prior joining operation was performed on the article or any of its components in the United States.

*ATPA.* “ATPA” means the Andean Trade Preference Act, 19 U.S.C. 3201-3206.

*ATPDEA beneficiary country.* “ATPDEA beneficiary country” means a “beneficiary country” as defined in § 10.202(a) for purposes of the ATPA which the President also has designated as a beneficiary country for purposes of preferential treatment of apparel and other textile articles under 19 U.S.C. 3203(b)(3) and which has been the subject of a determination by the President or his designee, published in the FEDERAL REGISTER, that the beneficiary country has satisfied the requirements of 19 U.S.C. 3203(b)(5)(A)(ii).

*Chief value.* “Chief value” when used with reference to llama, alpaca, and vicuña means that the value of those materials exceeds the value of any