

applicable in the country of production.

[CBP Dec. 05-07, 70 FR 10873, Mar. 7, 2005, as amended by CBP Dec. 06-39, 71 FR 76134, Dec. 20, 2006]

§ 10.471 Special rule for verifications in Chile of U.S. imports of textile and apparel products.

(a) *Procedures to determine whether a claim of origin is accurate.* For the purpose of determining that a claim of origin for a textile or apparel good is accurate, CBP may request that the government of Chile conduct a verification, regardless of whether a claim is made for preferential tariff treatment. While a verification under this paragraph is being conducted, CBP may take appropriate action, as directed by The Committee for the Implementation of Textile Agreements (CITA), which may include suspending the application of preferential treatment to the textile or apparel good for which a claim of origin has been made. If CBP is unable to make the determination described in this paragraph within 12 months after a request for a verification, CBP may take appropriate action with respect to the textile and apparel good subject to the verification, and with respect to similar goods exported or produced by the entity that exported or produced the good, if directed by CITA.

(b) *Procedures to determine compliance with applicable customs laws and regulations of the U.S.* For purposes of enabling CBP to determine that an exporter or producer is complying with applicable customs laws, regulations, and procedures in cases in which CBP has a reasonable suspicion that a Chilean exporter or producer is engaging in unlawful activity relating to trade in textile and apparel goods, CBP may request that the government of Chile conduct a verification, regardless of whether a claim is made for preferential tariff treatment. A “reasonable suspicion” for the purpose of this paragraph will be based on relevant factual information, including information of the type set forth in Article 5.5 of the US-CFTA, that indicates circumvention of applicable laws, regulations or procedures regarding trade in textile and apparel goods. CBP may un-

dertake or assist in a verification under this paragraph by conducting visits in Chile, along with the competent authorities of Chile, to the premises of an exporter, producer or any other enterprise involved in the movement of textile or apparel goods from Chile to the United States. While a verification under this paragraph is being conducted, CBP may take appropriate action, as directed by CITA, which may include suspending the application of preferential tariff treatment to the textile and apparel goods exported or produced by the Chilean entity where the reasonable suspicion of unlawful activity relates to those goods. If CBP is unable to make the determination described in this paragraph within 12 months after a request for a verification, CBP may take appropriate action with respect to any textile or apparel goods exported or produced by the entity subject to the verification, if directed by CITA.

(c) *Assistance by CBP to Chilean authorities.* CBP may undertake or assist in a verification under this section by conducting visits in Chile, along with the competent authorities of Chile, to the premises of an exporter, producer or any other enterprise involved in the movement of textile or apparel goods from Chile to the United States.

(d) *Treatment of documents and information provided to CBP.* Any production, trade and transit documents and other information necessary to conduct a verification under this section, provided to CBP by the government of Chile consistent with the laws, regulations, and procedures of Chile, will be considered confidential as provided for in Article 5.6 of the US-CFTA.

(e) *Notification to Chile.* Prior to commencing appropriate action under paragraph (a) or (b) of this section, CBP will notify the government of Chile. CBP may continue to take appropriate action under paragraph (a) or (b) of this section until it receives information sufficient to enable it to make the determination described in paragraphs (a) and (b) of this section.

(f) *Retention of authority by CBP.* If CBP requests a verification before Chile fully implements its obligations under Article 3.21 of the US-CFTA, the

§ 10.472

verification will be conducted principally by CBP, including through means described in paragraphs (a) and (b) of this section. CBP retains the authority to exercise its rights under paragraphs (a) and (b) of this section.

§ 10.472 Verification in the United States of textile and apparel goods.

(a) *Procedures to determine whether a claim of origin is accurate.* CBP will endeavor, at the request of the government of Chile, to conduct a verification for the purpose of determining that a claim of origin for a textile or apparel good is accurate. A verification will be conducted under this paragraph regardless of whether a claim is made for preferential tariff treatment. If the government of Chile is unable to make the determination described in this paragraph within 12 months after a request for a verification, Chile may take appropriate action with respect to the textile and apparel good subject to the verification, and with respect to similar goods exported or produced by the entity that exported or produced the good.

(b) *Procedures to determine compliance with applicable customs laws and regulations of Chile.* CBP will endeavor to conduct a verification at the request of the government of Chile for purposes of enabling Chile to determine that the U.S. exporter or producer is complying with applicable customs laws, regulations, and procedures, if Chile has a reasonable suspicion that a U.S. exporter or producer is engaging in unlawful activity relating to trade in textile and apparel goods. A verification will be conducted under this paragraph regardless of whether a claim is made for preferential tariff treatment. A “reasonable suspicion” for the purpose of this paragraph will be based on relevant factual information, including information of the type set forth in Article 5.5 of the US-CFTA, that indicates circumvention of applicable laws, regulations or procedures regarding trade in textile and apparel goods. If the government of Chile is unable to make the determination described in this paragraph within 12 months after a request for a verification, it may take action as permitted under its laws with respect to any textile or apparel goods

19 CFR Ch. I (4–1–08 Edition)

exported or produced by the entity subject to the verification.

(c) *Visits by CBP.* CBP may conduct visits to the premises of a U.S. exporter or producer or any other enterprise involved in the movement of textile or apparel goods from the United States to Chile in order to undertake or assist in a verification pursuant to paragraphs (a) and (b) of this section.

(d) *Initiation of verification by CBP.* CBP may conduct, on its own initiative, a verification for the purpose of determining that a claim of origin for a textile or apparel good is accurate.

(e) *Treatment of documents and information.* CBP will endeavor to provide to the government of Chile, consistent with U.S. laws, regulations, and procedures, production, trade, and transit documents and other information necessary to conduct a verification under paragraphs (a) and (b) of this section. Such information will be considered confidential as provided for in Article 5.6 of the US-CFTA.

§ 10.473 Issuance of negative origin determinations.

If CBP determines, as a result of an origin verification initiated under this subpart, that the good which is the subject of the verification does not qualify as an originating good, it will issue a determination in writing or via an authorized electronic data interchange system to the importer that sets forth the following:

(a) A description of the good that was the subject of the verification together with the identifying numbers and dates of the export and import documents pertaining to the good;

(b) A statement setting forth the findings of fact made in connection with the verification and upon which the determination is based;

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 26, HTSUS, and in §§ 10.450 through 10.463 of this subpart, the legal basis for the determination; and

(d) A notice of intent to deny preferential tariff treatment on the good