

timely fashion will result in a denial of duty-free treatment.

(iii) *Value added after final exportation.* In a case in which value is added to an article in a bonded warehouse or in a foreign-trade zone in the Commonwealth of Puerto Rico or in the U.S. after final exportation of the article from a beneficiary country, in order to ensure compliance with the value requirement under § 10.195(a), the declaration provided for in paragraph (a)(1)(i) of this section shall be filed by the importer or consignee with the entry summary as evidence of the country of origin. The declaration shall be properly completed by the party responsible for the addition of such value.

(2) *Merchandise wholly the growth, product, or manufacture of a beneficiary country.* In a case involving merchandise covered by a formal entry which is wholly the growth, product, or manufacture of a single beneficiary country, a statement to that effect shall be included on the commercial invoice provided to Customs.

(b) *Shipments covered by an informal entry.* Although the filing of the declaration provided for in paragraph (a)(1)(i) of this section will not be required for a shipment covered by an informal entry, the port director may require such other evidence of country of origin as deemed necessary.

(c) *Verification of documentation.* Any evidence of country of origin submitted under this section shall be subject to such verification as the port director deems necessary. In the event that the port director is prevented from obtaining the necessary verification, the port director may treat the entry as dutiable.

[T.D. 94-47, 59 FR 25570, May 17, 1994]

ANDEAN TRADE PREFERENCE

SOURCE: Sections 10.201 through 10.208 appear at T.D. 98-76, 63 FR 51292, Sept. 25, 1998, unless otherwise noted.

§ 10.201 Applicability.

Title II of Pub. L. 102-182 (105 Stat. 1233), entitled the Andean Trade Preference Act (ATPA) and codified at 19 U.S.C. 3201-3206, authorizes the President to proclaim duty-free treatment for all eligible articles from any bene-

fiary country, to designate countries as beneficiary countries, and to proclaim duty reductions for certain goods not eligible for duty-free treatment. The provisions of §§ 10.202-10.208 of this part set forth the legal requirements and procedures that apply for purposes of obtaining such duty-free or reduced-duty treatment for articles from a beneficiary country which are identified for purposes of such treatment in General Note 11, Harmonized Tariff Schedule of the United States (HTSUS), and in the "Special" rate of duty column of the HTSUS.

§ 10.202 Definitions.

The following definitions apply for purposes of §§ 10.201 through 10.208:

(a) *Beneficiary country.* Except as otherwise provided in § 10.206(b), the term "beneficiary country" refers to any country or successor political entity with respect to which there is in effect a proclamation by the President designating such country or successor political entity as a beneficiary country in accordance with section 203 of the ATPA (19 U.S.C. 3202).

(b) *Eligible articles.* The term "eligible" when used with reference to an article means merchandise which is imported directly from a beneficiary country as provided in § 10.204, which meets the country of origin criteria set forth in § 10.205 and the value-content requirement set forth in § 10.206, and which, if the requirements of § 10.207 are met, is therefore entitled to duty-free treatment under the ATPA. However, the following merchandise shall not be considered eligible articles entitled to duty-free treatment under the ATPA:

(1) Textile and apparel articles which are subject to textile agreements;

(2) Footwear not designated on December 4, 1991, as eligible for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461-2466);

(3) Tuna, prepared or preserved in any manner, in airtight containers;

(4) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710, Harmonized Tariff Schedule of the United States (HTSUS);

(5) Watches and watch parts (including cases, bracelets, and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTSUS column 2 rates of duty apply;

(6) Sugars, syrups, and molasses classified in subheadings 1701.11.03, 1701.12.02, 1701.99.02, 1702.90.32, 1806.10.42, and 2106.90.12, HTSUS;

(7) Rum and tafia classified in subheading 2208.40.00, HTSUS; or

(8) Articles to which reduced rates of duty apply under section 204(c) of the ATPA (19 U.S.C. 3203(c)) (see § 10.208).

(c) *Entered.* The term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(d) *Wholly the growth, product, or manufacture of a beneficiary country.* The expression “wholly the growth, product, or manufacture of a beneficiary country” has the same meaning as that set forth in § 10.191(b)(3) of this part.

§ 10.203 Eligibility criteria in general.

An article classifiable under a subheading of the Harmonized Tariff Schedule of the United States for which a rate of duty of “Free” appears in the “Special” subcolumn followed by the symbol “J” or “J*” in parentheses is eligible for duty-free treatment, and will be accorded such treatment, if each of the following requirements is met:

(a) *Imported directly.* The article is imported directly from a beneficiary country as provided in § 10.204.

(b) *Country of origin criteria.* The article complies with the country of origin criteria set forth in § 10.205.

(c) *Value content requirement.* The article complies with the value content requirement set forth in § 10.206.

(d) *Filing of claim and submission of supporting documentation.* The claim for duty-free treatment is filed, and any required documentation in support of the claim is submitted, in accordance with the procedures set forth in § 10.207.

§ 10.204 Imported directly.

In order to be eligible for duty-free treatment under the ATPA, an article

shall be imported directly from a beneficiary country into the customs territory of the United States. For purposes of this requirement, the words “imported directly” mean:

(a) Direct shipment from any beneficiary country to the United States without passing through the territory of any non-beneficiary country; or

(b) If shipment from any beneficiary country to the United States was through the territory of a non-beneficiary country, the articles in the shipment did not enter into the commerce of the non-beneficiary country while en route to the United States, and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(c) If shipment from any beneficiary country to the United States was through the territory of a non-beneficiary country and the invoices and other documents do not show the United States as the final destination, then the articles in the shipment, upon arrival in the United States, are imported directly only if they:

(1) Remained under the control of the customs authority in the intermediate country;

(2) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the articles are imported into the United States as a result of the original commercial transaction between the importer and the producer or the latter’s sales agent; and

(3) Were not subjected to operations in the intermediate country other than loading and unloading, and other activities necessary to preserve the articles in good condition.

§ 10.205 Country of origin criteria.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an article may be eligible for duty-free treatment under the ATPA if the article is either:

(1) Wholly the growth, product, or manufacture of a beneficiary country; or

(2) A new or different article of commerce which has been grown, produced, or manufactured in a beneficiary country.