

(C) The actual cost of waste or spoilage, less the value of recoverable scrap; and

(D) Taxes and/or duties imposed on the materials by any beneficiary country or by the United States, provided they are not remitted upon exportation.

(ii) Where a material is provided to the manufacturer without charge, or at less than fair market value, its cost or value shall be determined by computing the sum of:

(A) All expenses incurred in the growth, production, or manufacture of the material, including general expenses;

(B) An amount for profit; and

(C) Freight, insurance, packing, and all other costs incurred in transporting the material to the manufacturer's plant.

(iii) If the pertinent information needed to compute the cost or value of a material is not available, the appraising officer may ascertain or estimate the value thereof using all reasonable ways and means at his disposal.

(e) *Direct costs of processing operations*—(1) *Items included.* For purposes of paragraph (a) of this section, the words *direct costs of processing operations* mean those costs either directly incurred in, or which can be reasonably allocated to, the growth, production, manufacture, or assembly of the specific merchandise under consideration. Such costs include, but are not limited to the following, to the extent that they are includable in the appraised value of the imported merchandise:

(i) 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 cost of engineering, supervisory, quality control, and similar personnel;

(ii) Dies, molds, tooling, and depreciation on machinery and equipment which are allocable to the specific merchandise;

(iii) Research, development, design, engineering, and blueprint costs insofar as they are allocable to the specific merchandise; and

(iv) Costs of inspecting and testing the specific merchandise.

(2) *Items not included.* For purposes of paragraph (a) of this section, the words "direct costs of processing operations" do not include items which are not directly attributable to the merchandise under consideration or are not costs of manufacturing the product. These include, but are not limited to:

(i) Profit; and

(ii) General expenses of doing business which either are 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 salesmen's salaries, commissions, or expenses.

(f) *Articles wholly the growth, product, or manufacture of a beneficiary country.* Any article which is wholly the growth, product, or manufacture of a beneficiary country as defined in § 10.202(a), and any article produced or manufactured in a beneficiary country as defined in § 10.202(a) exclusively from materials which are wholly the growth, product, or manufacture of a beneficiary country or countries, shall normally be presumed to meet the requirement set forth in paragraph (a) of this section.

§ 10.207 Procedures for filing duty-free treatment claim and submitting supporting documentation.

(a) *Filing claim for duty-free treatment.* Except as provided in paragraph (c) of this section, a claim for duty-free treatment under the ATPA may be made at the time of filing the entry summary by placing the symbol "J" as a prefix to the Harmonized Tariff Schedule of the United States sub-heading number applicable to each article for which duty-free treatment is claimed on that document.

(b) *Shipments covered by a formal entry*—(1) *Articles not wholly the growth, product, or manufacture of a beneficiary country*—(i) *Declaration.* In a case involving an article covered by a formal entry for which duty-free treatment is claimed under the ATPA and which is not wholly the growth, product, or manufacture of a single beneficiary country as defined in § 10.202(a), the exporter or other appropriate party having knowledge of the relevant facts in

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the beneficiary country as defined in §10.202(a) where the article was produced or last processed shall be prepared to submit directly to the port director, upon request, a declaration setting forth all pertinent detailed information concerning the production or manufacture of the article. When requested by the port director, the declaration shall be prepared in substantially the following form:

ATPA DECLARATION

I, _____(name), hereby declare that the articles described below (a) were produced or manufactured in _____

(country) by means of processing operations performed in that country as set forth below and were also subjected to processing operations in the other beneficiary country or countries (including the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and any CBI beneficiary country) as set forth below and (b) incorporate materials produced in the country named above or in any other beneficiary country or countries (including the Commonwealth of Puerto Rico, the U.S. Virgin Islands, and any CBI beneficiary country) or in the customs territory of the United States (other than the Commonwealth of Puerto Rico) as set forth below: _____

Number and date of invoices	Description of articles and quantity	Processing operations performed on articles		Material produced in a beneficiary country or in the U.S.	
		Description of processing operations and country of processing	Direct costs of processing operations	Description of material, production process, and country of production	Cost or value of material

Date _____
 Address _____
 Signature _____
 Title _____

(ii) *Retention of records and submission of declaration.* The information necessary for the preparation of the declaration shall be retained in the files of the party responsible for its preparation and submission for a period of 5 years. In the event that the port director requests submission of the declaration during the 5-year period, it shall be submitted by the appropriate party directly to the port director within 60 days of the date of the request or such additional period as the port director may allow for good cause shown. Failure to submit the declaration in a 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 the Commonwealth of Puerto Rico or in the United States after final exportation of the article from a beneficiary country as defined in §10.202(a), in order to ensure compliance with the value requirement under §10.206(a), the declaration provided for in paragraph (b)(1)(i) of this section shall be filed by the importer or consignee with the entry summary. The declaration shall be completed by the

party responsible for the addition of such value.

(2) *Articles wholly the growth, product, or manufacture of a beneficiary country.* In a case involving an article covered by a formal entry for which duty-free treatment is claimed under the ATPA and which is wholly the growth, product, or manufacture of a single beneficiary country as defined in §10.202(a), a statement to that effect shall be included on the commercial invoice provided to Customs.

(c) *Shipments covered by an informal entry.* The normal procedure for filing a claim for duty-free treatment as set forth in paragraph (a) of this section need not be followed, and the filing of the declaration provided for in paragraph (b)(1)(i) of this section will not be required, in a case involving a shipment covered by an informal entry. However, the port director may require submission of such other evidence of entitlement to duty-free treatment as deemed necessary.

(d) *Evidence of direct importation—(1) Submission.* The port director may require that appropriate shipping papers, invoices, or other documents be submitted within 60 days of the date of entry as evidence that the articles were “imported directly”, as that term is defined in §10.204.

(2) *Waiver.* The port director may waive the submission of evidence of direct importation when otherwise satisfied, taking into consideration the kind and value of the merchandise, that the merchandise was, in fact, imported directly and that it otherwise clearly qualifies for duty-free treatment under the ATPA.

(e) *Verification of documentation.* The documentation submitted under this section to demonstrate compliance with the requirements for duty-free treatment under the ATPA 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 fully dutiable.

§ 10.208 Duty reductions for certain products.

(a) *General.* Handbags, luggage, flat goods, work gloves, and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461-2466), are not eligible for duty-free treatment under the ATPA. However, any such article from a beneficiary country may be subject to a reduced rate of duty set forth in the Harmonized Tariff Schedule of the United States in the applicable "Special" subcolumn followed by the symbol "J" in parenthesis, provided the article is a product of any beneficiary country. For purposes of this section, an article is a "product of" a beneficiary country 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.

(b) *Filing reduced-duty claim.* A claim for reduced-duty treatment under the ATPA may be made at the time of filing the entry summary or other entry document by placing thereon the symbol "J" as a prefix to the Harmonized Tariff Schedule of the United States subheading number applicable to each article for which reduced-duty treat-

ment is claimed and by placing thereon the reduced duty rate applicable to each such article.

(c) *Verification of reduced-duty claim.* Any claim for reduced-duty treatment 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 at the applicable non-ATPA rate.

UNITED STATES-CANADA FREE TRADE AGREEMENT

SOURCE: Sections 10.301 through 10.311 issued by T.D. 89-3, 53 FR 51766, Dec. 23, 1988, unless otherwise noted.

§ 10.301 Scope and applicability.

The provisions of §§ 10.302 through 10.311 of this part relate to the procedures for obtaining duty preferences on imported goods under the United States-Canada Free-Trade Agreement (the Agreement) entered into on January 2, 1988, and the United States-Canada Free-Trade Agreement Implementation Act of 1988 (102 Stat. 1851). The United States and Canada agreed to suspend operation of the Agreement with effect from January 1, 1994, to coincide with the entry into force of the North American Free Trade Agreement (see part 181 of this chapter) and, accordingly, the provisions of §§ 10.302 through 10.311 of this part apply only to goods imported from Canada that were entered for consumption, or withdrawn from warehouse for consumption, during the period January 1, 1989, through December 31, 1993. In situations involving goods subject to bilateral restrictions or prohibitions, or country of origin marking, other criteria for determining origin may be applicable pursuant to Article 407 of the Agreement.

[T.D. 96-35, 61 FR 19835, May 3, 1996]

§ 10.302 Eligibility criteria in general.

Subject to the more specific explanations of the criteria in §§ 10.303 and 10.305 of this part, goods classifiable under an HTSUS heading or subheading for which the symbol "CA" appears in the "special" column are eligible for a preference if: