

apply to goods which, in their condition as exported from the United States to Bahrain, are incomplete for their intended use and for which the processing operation performed in Bahrain constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) *Documentation.* The provisions of paragraphs (a), (b), and (c) of §10.8 of this part, relating to the documentary requirements for goods entered under subheading 9802.00.40 or 9802.00.50, HTSUS, will apply in connection with the entry of goods which are returned from Bahrain after having been exported for repairs or alterations and which are claimed to be duty free.

Subpart O—Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006

SOURCE: CBP Dec. 07-43, 72 FR 34369, June 22, 2007, unless otherwise noted.

§ 10.841 Applicability.

Title V of Public Law 109-432, entitled the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE I Act), amended the Caribbean Basin Economic Recovery Act (the CBERA, 19 U.S.C. 2701-2707) by adding a new section 213A (19 U.S.C. 2703A) to authorize the President to extend additional trade benefits to Haiti. part I, Subtitle D, Title XV of Public Law 110-234, entitled the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II Act) amended certain provisions within section 213A. Section 213A of the CBERA provides for the duty-free treatment of certain apparel articles and certain wiring sets from Haiti. The provisions of this subpart set forth the legal requirements and procedures that apply for purposes of obtaining duty-free treatment pursuant to CBERA section 213A.

[CBP Dec. 08-24, 73 FR 56725, Sept. 30, 2008]

§ 10.842 Definitions.

As used in this subpart, the following terms have the meanings indicated unless either the context in which they

are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *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;

(b) *Applicable one-year period.* “Applicable one-year period” means each of the following one-year periods:

(1) *Initial applicable one-year period.* “Initial applicable one-year period” means the period beginning on December 20, 2006, and ending on December 19, 2007;

(2) *Second applicable one-year period.* “Second applicable one-year period” means the period beginning on December 20, 2007, and ending on December 19, 2008;

(3) *Third applicable one-year period.* “Third applicable one-year period” means the period beginning on December 20, 2008, and ending on December 19, 2009;

(4) *Fourth applicable one-year period.* “Fourth applicable one-year period” means the period beginning on December 20, 2009, and ending on December 19, 2010; and

(5) *Fifth applicable one-year period.* “Fifth applicable one-year period” means the period beginning on December 20, 2010, and ending on December 19, 2011;

(c) *Customs territory of the United States.* “Customs territory of the United States” means the 50 states, the District of Columbia, and Puerto Rico;

(d) *Declared customs value.* “Declared customs value” means the appraised value of an imported article determined in accordance with section 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a);

(e) *Enter; entry.* “Enter” and “entry” refer to the entry, or withdrawal from warehouse for consumption, in the customs territory of the United States;

(f) *Entity controlling production.* “Entity controlling production” means an individual, corporation, partnership, association, or other entity or group that is not a producer and that controls the production process in Haiti through a contractual relationship or other indirect means;

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(g) *Fabric component*. “Fabric component” means a component cut from fabric to the shape or form of the component as it is used in the apparel article;

(h) *Foreign material*. “Foreign material” means a material not produced in Haiti or any eligible country described in §10.844(c);

(i) *HTSUS*. “HTSUS” means the Harmonized Tariff Schedule of the United States;

(j) *Knit-to-shape articles*. “Knit-to-shape,” when used with reference to apparel articles, means any apparel article of which 50 percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the apparel article, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether an apparel article is “knit-to-shape”;

(k) *Knit-to-shape components*. “Knit-to-shape,” when used with reference to textile components, means components that are knitted or crocheted from a yarn directly to a specific shape, that is, the shape or form of the component as it is used in the apparel article, containing at least one self-start edge. Minor cutting or trimming will not affect the determination of whether a component is “knit-to-shape”;

(l) *Major parts*. “Major parts” means integral components of an apparel article but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts or components;

(m) *Producer*. “Producer” means an individual, corporation, partnership, association, or other entity or group that exercises direct, daily operational control over the production process in Haiti;

(n) *Self-start edge*. “Self-start edge,” when used with reference to knit-to-shape components, means a finished edge which is finished as the component comes off the knitting machine. Several components with finished edges may be linked by yarn or thread as they are produced from the knitting machine;

(o) *Subheading*. “Subheading” means the first six digits in the tariff classification number under the HTSUS;

(p) *Wholly assembled in Haiti*. “Wholly assembled in Haiti” means that all components, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliques, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), will not affect the determination of whether a good is “wholly assembled in Haiti”.

(q) *Wholly the growth, product, or manufacture*. “Wholly the growth, product, or manufacture,” when used with reference to Haiti or one or more eligible countries described in §10.844(c) of this subpart, refers both to any article which has been entirely grown, produced, or manufactured in Haiti or one or more eligible countries described in §10.844(c) of this subpart and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in Haiti or one or more eligible countries described in §10.844(c) of this subpart.

[CBP Dec. 07-43, 72 FR 34369, June 22, 2007, as amended at CBP Dec. 08-24, 73 FR 56725, Sept. 30, 2008]

§ 10.843 Articles eligible for duty-free treatment.

The duty-free treatment referred to in §10.841 of this subpart applies to the articles described in paragraphs (a) through (j) of this section that are imported directly from Haiti or the Dominican Republic into the customs territory of the United States and to the articles described in paragraph (k) of this section that are imported directly from Haiti into the customs territory of the United States.

(a) *Certain apparel articles*. Apparel articles of a producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, subject to the applicable quantitative limits set forth in U.S. Note

6(g), Subchapter XX, Chapter 98, HTSUS, and provided that the applicable value-content requirement set forth in §10.844(a) of this subpart is met through the use of:

(1) The individual entry method (*see* §10.844(a)(1) of this subpart); or

(2) The annual aggregation method (*see* §10.844(a)(2) of this subpart).

(b) *Certain woven apparel articles.* Apparel articles classifiable in Chapter 62 of the HTSUS that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made, subject to the applicable quantitative limits set forth in U.S. Note 6(h), Subchapter XX, Chapter 98, HTSUS.

(c) *Brassieres.* Apparel articles classifiable in subheading 6212.10 of the HTSUS that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(d) *Certain knit apparel articles—(1) General.* Apparel articles classifiable in Chapter 61 of the HTSUS (other than those described in paragraph (d)(2) of this section) that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components, components knit-to-shape, or yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made, subject to the applicable quantitative limits set forth in U.S. Note 6(j), Subchapter XX, Chapter 98, HTSUS.

(2) *Exclusions.* Duty-free treatment for the articles described in paragraph (d)(1) of this section will not apply to the following:

(i) The following apparel articles of cotton, for men or boys, that are classifiable in subheading 6109.10.00 of the HTSUS:

(A) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the

center of the V, and without pockets, trim, or embroidery;

(B) All white singlets, without pockets, trim, or embroidery; and

(C) Other T-shirts, but not including thermal undershirts;

(ii) T-shirts for men or boys that are classifiable in subheading 6109.90.10 of the HTSUS;

(iii) The following apparel articles of cotton, for men or boys, that are classifiable in subheading 6110.20.20 of the HTSUS:

(A) Sweatshirts; and

(B) Pullovers, other than sweaters, vests, or garments imported as part of playsuits; or

(iv) Sweatshirts for men or boys, of man-made fibers and containing less than 65 percent by weight of man-made fibers, that are classifiable in subheading 6110.30.30 of the HTSUS.

(e) *Other apparel articles.* Any of the following apparel articles that is wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(1) Any apparel article that is of a type listed in chapter rule 3, 4, or 5 for chapter 61 of the HTSUS (as such chapter rules are contained in section A of the Annex to Presidential Proclamation 8213 of December 20, 2007) as being excluded from the scope of such chapter rule, when such chapter rule is applied to determine whether an apparel article is an originating good for purposes of General Note 29(n), HTSUS, except that, for purposes of this provision, reference in such chapter rules to subheading 6104.12.00 of the HTSUS is deemed to refer to subheading 6104.19.60 of the HTSUS; or

(2) Any apparel article (other than articles to which paragraph (c) of this section applies (brassieres)) that is of a type listed in chapter rule 3(a), 4(a), or 5(a) for chapter 62 of the HTSUS, as such chapter rules are contained in paragraph 9 of section A of the Annex to Presidential Proclamation 8213 of December 20, 2007.

(f) *Luggage and similar items.* Articles classifiable in subheading 4202.12, 4202.22, 4202.32, or 4202.92 of the HTSUS

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that are wholly assembled in Haiti, without regard to the source of the fabric, components, or materials from which the article is made.

(g) *Headgear*. Articles classifiable in heading 6501, 6502, or 6504, or subheading 6505.90 of the HTSUS that are wholly assembled, knit-to-shape, or formed in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made.

(h) *Certain sleepwear*. Any of the following apparel articles that is wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the article is made:

(1) Pajama bottoms and other sleepwear for women and girls, of cotton, that are classifiable in subheading 6208.91.30, HTSUS, or of man-made fibers, that are classifiable in subheading 6208.92.00, HTSUS; or

(2) Pajama bottoms and other sleepwear for girls, of other textile materials, that are classifiable in subheading 6208.99.20, HTSUS.

(i) *Earned import allowance rule*. Apparel articles wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the source of the fabric, fabric components, components knit-to-shape, or yarns from which the articles are made, if such apparel articles are accompanied by an earned import allowance certificate issued by the Department of Commerce that reflects the amount of credits equal to the total square meter equivalents of such apparel articles, in accordance with the earned import allowance program established by the Secretary of Commerce pursuant to 19 U.S.C. 2703A(b)(4)(B).

(j) *Apparel articles of short supply materials*. Apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the

source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

(1) Fabrics or yarns, to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the North American Free Trade Agreement (NAFTA); or

(2) Fabrics or yarns, to the extent that such fabrics or yarns are designated as not being available in commercial quantities for purposes of:

(i) Section 213(b)(2)(A)(v) of the CBERA (19 U.S.C. 2703(b)(2)(A)(v));

(ii) Section 112(b)(5) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(5));

(iii) Section 204(b)(3)(B)(i)(III) or 204(b)(3)(B)(ii) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(i)(II) or 3203(b)(3)(B)(ii)); or

(iv) Any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement entered into by the United States that is in effect at the time the claim for preferential tariff treatment is made under § 10.847 of this subpart.

(k) *Wiring sets*. Any article classifiable in subheading 8544.30.00 of the HTSUS, as in effect on December 20, 2006, that is the product or manufacture of Haiti, provided the article satisfies the value-content requirement set forth in § 10.844(b) of this subpart. For purposes of this paragraph, the term “product or manufacture of Haiti” refers to an article that is either:

(1) Wholly the growth, product, or manufacture of Haiti; or

(2) A new or different article of commerce that has been grown, produced, or manufactured in Haiti.

[CBP Dec. 07–43, 72 FR 34369, June 22, 2007, as amended at CBP Dec. 08–24, 73 FR 56725, Sept. 30, 2008]

§ 10.844 Value-content requirement.

(a) *Certain apparel articles*—(1) *General*. Except as provided in paragraph

(a)(2) of this section, apparel articles described in §10.843(a) of this subpart will be eligible for duty-free treatment only if, for each entry of such articles in the applicable one-year period for which a duty-free claim is made for such articles under §10.847(a) of this subpart, the sum of the cost or value of the materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, plus the direct costs of processing operations performed in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, is not less than (as applicable):

(i) 50 percent or more of the declared customs value of the articles entered during the initial applicable one-year period, the second applicable one-year period, and the third applicable one-year period;

(ii) 55 percent or more of the declared customs value of the articles entered during the fourth applicable one-year period; and

(iii) 60 percent or more of the declared customs value of the articles entered during the fifth applicable one-year period.

(2) *Annual aggregation*—(i) *Initial applicable one-year period*. In the initial applicable one-year period, the applicable value-content requirement set forth in paragraph (a)(1) of this section may also be met for apparel articles of a producer or an entity controlling production that are entered during the initial applicable one-year period and for which duty-free treatment is claimed under §10.847(a) of this subpart by aggregating the cost or value of materials and the direct costs of processing operations, as those terms are used in paragraph (a)(1) of this section, with respect to all apparel articles of that producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti and are entered during the initial applicable one-year period (except as provided in paragraph (a)(2)(iii) of this section).

(ii) *Other applicable one-year periods*. In each of the second, third, fourth, and fifth applicable one-year periods, the applicable value-content requirement set forth in paragraph (a)(1) of this section may also be met for ap-

parel articles of a producer or an entity controlling production that are entered during the applicable one-year period and for which duty-free treatment is claimed under §10.847(a) of this subpart by aggregating the cost or value of materials and the direct costs of processing, as those terms are used in paragraph (a)(1) of this section, with respect to all apparel articles of that producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti and are entered during the preceding applicable one-year period (except as provided in paragraph (a)(2)(iii) of this section).

(iii) *Exclusions from annual aggregation calculation*. The entry of an apparel article that is wholly assembled or knit-to-shape in Haiti and is receiving preferential tariff treatment under any provision of law other than section 213A(b)(1) of the CBERA (19 U.S.C. 2703A(b)(1)) or is subject to the “General” subcolumn of column 1 of the HTSUS will only be included in an annual aggregation under paragraph (a)(2)(i) or (a)(2)(ii) of this section if the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entry in the aggregation.

Example. A Haitian producer elects to use the annual aggregation method in the initial applicable one-year period, and also elects to include in the aggregation calculation an entry of apparel articles receiving preferential tariff treatment under another preference program. The producer ships to the United States four shipments during the initial applicable one-year period and all are entered during that period. The first shipment of apparel (qualifying for and receiving preference under the Caribbean Basin Trade Partnership Act (CBTPA)) has an appraised value of \$100,000 and meets a value-content percentage (under §10.844(a) of this section) of 80%. The second shipment of apparel is wholly assembled in Haiti, has an appraised value of \$100,000, and meets a value-content percentage of 40%. The third shipment is wholly assembled in Haiti, has an appraised value of \$50,000, and meets a value-content percentage of 0%. The last shipment is wholly assembled in Haiti, has an appraised value of \$20,000, and meets a value-content requirement of 80%. Taken together, the four shipments have an appraised value of \$270,000 and meet a value-content percentage of 50.4%. The apparel articles shipped to the United States in the last three shipments would qualify for duty-free treatment under section

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213A(b)(1) of the CBERA and § 10.843(a) of this subpart as the applicable value-content requirement for the initial applicable one-year period (50 %) is satisfied. This conclusion assumes that: The CBTPA-eligible apparel articles in the first shipment (that were included in the annual aggregation calculation at the election of the producer) were wholly assembled or knit-to-shape in Haiti, as required in § 10.844(a)(2)(iii) of this section; and the articles in the last three shipments that were wholly assembled in Haiti satisfy all other applicable requirements set forth in this subpart.

(3) *Election to use the annual aggregation method for an applicable one-year period.* A producer or entity controlling production may elect to use the individual entry or annual aggregation method in any applicable one-year period and then elect to use the other method during the subsequent applicable one-year period, provided that all applicable requirements are met during the applicable one-year period preceding the period in which the switch is made. If a producer or entity controlling production using the individual entry method in an applicable one-year period elects to use the annual aggregation method during the subsequent applicable one-year period, the declaration of compliance described in § 10.848 of this subpart must be submitted to CBP within 30 days following the end of the applicable one-year period in which the individual entry method was used.

(4) *Failure to meet applicable requirements—(i) Initial applicable one-year period.* Except as provided in paragraph (a)(4)(iii) of this section, if CBP determines that apparel articles of a producer or entity controlling production that are entered as articles described in § 10.843(a) of this subpart during the initial applicable one-year period have not met the requirements of § 10.843(a) of this subpart or the applicable value-content requirement set forth in paragraph (a)(1) of this section, then:

(A) All apparel articles of the producer or entity controlling production for which duty-free treatment is claimed under § 10.847(a) of this subpart that are entered under the annual aggregation method during that initial applicable one-year period will be denied duty-free treatment;

(B) Those apparel articles of the producer or entity controlling production for which duty-free treatment is claimed under § 10.847(a) of this subpart that are entered on an individual entry basis and that fail to meet the requirements of § 10.843(a)(1) of this subpart or the applicable value-content requirement set forth in paragraph (a)(1) of this section during that initial applicable one-year period will be denied duty-free treatment. However, apparel articles of the producer or entity controlling production for which duty-free treatment is claimed under § 10.847(a) of this subpart that are entered on an individual entry basis prior to an election being made by the producer or entity controlling production to use the annual aggregation method will be considered to have met the applicable value-content requirement if that requirement is met through application of the individual entry method; and

(C) All apparel articles of the producer or entity controlling production for which duty-free treatment is claimed under § 10.847(a) of this subpart, whether entered on an individual entry or annual aggregation basis, will be not be eligible for duty-free treatment during the succeeding applicable one-year periods until the increased percentage in the value-content requirement specified in paragraph (a)(4)(iii) of this section has been met by all the apparel articles of that producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti and are entered during the immediately preceding applicable one-year period, unless the articles qualify for tariff benefits pursuant to the provisions of § 10.845 of this subpart.

(ii) *Other applicable one-year periods.* Except as provided in paragraph (a)(4)(iii) of this section, if CBP determines that apparel articles of a producer or entity controlling production that are entered as articles described in § 10.843(a) of this subpart during any applicable one-year period following the initial applicable one-year period have not met the requirements of § 10.843(a) or the applicable value-content requirement set forth in paragraph (a) of this section, then:

(A) Those apparel articles of the producer or entity controlling production for which duty-free treatment is claimed under §10.847(a) of this subpart that are entered on an individual entry basis and that fail to meet the requirements of §10.843(a)(1) or the applicable value-content requirement set forth in paragraph (a)(1) of this subpart during that applicable one-year period will be denied duty-free treatment; and

(B) All apparel articles of the producer or entity controlling production for which duty-free treatment is claimed under §10.847(a) of this subpart, whether entered on an individual entry or annual aggregation basis, will not be eligible for duty-free treatment during the succeeding applicable one-year periods until the increased percentage in the value-content requirement specified in paragraph (a)(4)(iii) of this section has been met by all the apparel articles of that producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti and are entered during the immediately preceding applicable one-year period, unless the articles qualify for tariff benefits pursuant to the provisions of §10.845 of this subpart.

(iii) *Entity controlling production of apparel articles of a producer also producing for its own account.* Where an entity controlling production controls the production of apparel articles, as described in §10.843(a) of this subpart, of a producer that also produces for its own account, the failure of apparel articles of that producer to meet the requirements of §10.843(a) of this subpart or the applicable value-content requirement set forth in paragraph (a) of this section in an applicable one-year period, either under the annual aggregation method or the individual entry method, will not affect the eligibility for duty-free treatment under §10.843(a) of this subpart of those apparel articles of that producer which are part of a claim for such treatment made on behalf of the entity controlling production.

Example. Importer D, an entity controlling production, purchases apparel articles that meet the description in §10.843(a) of this subpart from Haitian Producers A, B, and C and enters those articles during the initial applicable one-year period. Importer D elects to

use the annual aggregation method during that period. The three producers also produce apparel for other U.S. importers and each producer elects to use the annual aggregation method. The apparel articles purchased by Importer D from the three producers and entered during the initial applicable one-year period meet a value-content percentage of 51.7%. However, the value-content percentage met by all the apparel that is wholly assembled in Haiti by Producer C and entered (including the apparel imported by Importer D) during the initial applicable one-year period is 49%. As all of the articles, in the aggregate, purchased by Importer D from the three producers and entered during the initial applicable one-year period satisfy the applicable value-content requirement (50%), all of these articles are entitled to duty-free treatment under section 213A(b)(1) of the CBERA and §10.843(a) of this subpart, assuming all other applicable requirements are met. The failure of Producer C to meet the 50% value-content requirement with respect to all of the articles that it wholly assembled in Haiti and entered during the initial applicable one-year period will not prevent duty-free status being claimed for the articles purchased by Importer D from Producer C. Therefore, the consequences of Producer C's failure to meet the 50% value-content requirement include the denial of preferential tariff treatment for all articles that are wholly assembled in Haiti by Producer C and entered during the initial applicable one-year period, *except for* those articles sold by Producer C to Importer D. An additional consequence of Producer C's failure to meet the value-content requirement in the initial applicable one-year period is that articles wholly assembled in Haiti by Producer C and entered during succeeding applicable one-year periods will be ineligible for duty-free treatment until the appropriate increased value-content requirement has been met (*see* §10.844(a)(4)(i)(C) of this subpart), except to the extent the articles qualify for preference under §10.845 of this subpart.

(iv) *Increased percentage.* For apparel articles of a producer or entity controlling production to meet the increased percentage referred to in paragraphs (a)(4)(i)(C) and (a)(4)(ii)(B) of this section, the sum of the cost or value of the materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, plus the direct costs of processing operations performed in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, must not be less than the applicable percentage under paragraph (a)(1) of

this section, plus 10 percent, of the aggregate declared customs value of all apparel articles of that producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti and are entered during the immediately preceding applicable one-year period. Once the increased value-content percentage has been met for the articles of a producer or entity controlling production that are entered during an applicable one-year period, the articles of that producer or entity controlling production that are entered during the next succeeding applicable one-year period will be subject to the applicable value-content percentage specified in paragraph (a)(1) of this section.

(v) *Articles of a new producer or entity controlling production.* Apparel articles of a new producer or entity controlling production electing to use the annual aggregation method for purposes of meeting the applicable value-content requirement must first meet the increased value-content percentage specified in paragraph (a)(4)(iv) of this section as a prerequisite to receiving duty-free treatment during a succeeding applicable one-year period. Apparel articles of a new producer or entity controlling production electing to use the individual entry method are not subject to the requirement of first meeting the increased value-content percentage as a prerequisite to receiving duty-free treatment during the first year of participation or in any succeeding applicable one-year period. For purposes of this paragraph, a “new producer or entity controlling production” is a producer or entity controlling production that did not produce or control production of articles that were entered as articles pursuant to §10.843(a) of this subpart during the immediately preceding applicable one-year period.

Example 1. A Haitian producer begins production of apparel articles that meet the description in §10.843(a) of this subpart during the second applicable one-year period and elects to use the annual aggregation method for each applicable one-year period. The producer’s articles entered during the second applicable one-year period meet a value-content percentage of 55%; articles entered during the third applicable one-year period meet a value-content percentage of 65%; and articles entered during the fourth applicable

one-year period meet a value-content percentage of 55%. The producer’s articles may not receive duty-free treatment during the second applicable one-year period because there was no production (and thus no entered articles) during the immediately preceding period (the initial applicable one-year period) on which to assess compliance with the applicable value-content requirement. The producer’s articles also may not receive duty-free treatment during the third applicable one-year period because the increased value-content percentage requirement (50% plus 10% = 60%) was not met in the immediately preceding period (the second applicable one-year period). However, the producer’s articles are eligible for duty-free treatment during the fourth applicable one-year period based on compliance with the 60% value-content percentage requirement in the immediately preceding period (the third applicable one-year period). The producer’s articles also are eligible for duty-free treatment during the fifth applicable one-year period based on compliance with the 55% value-content percentage requirement in the immediately preceding period (the fourth applicable one-year period).

Example 2. Same facts as in example 1, except that the producer elects to use the individual entry method for purposes of meeting the applicable value-content requirement for each applicable one-year period. The producer’s articles entered during the second applicable one-year period are eligible for duty-free treatment because these articles meet the requisite 50% value-content requirement. The producer’s articles also may receive duty-free treatment during the third, fourth, and fifth applicable one-year periods based on compliance with the applicable value-content requirements for each of those periods set forth in paragraph (a)(1) of this section.

(vi) *Notification of compliance with the increased percentage—(A) General.* If apparel articles of a producer or entity controlling production are required to meet the increased value-content percentage described in paragraph (a)(4)(iv) of this section, either because of failure to meet the requirements of §10.843(a) or the applicable value-content requirement set forth in paragraph (a) of this section in an applicable one-year period, or because the producer or entity controlling production is a new producer or entity controlling production, as defined in paragraph (a)(4)(v) of this section, that elects to use the annual aggregation method, the importer of such articles must notify CBP that the increased percentage has been met in an applicable one-year

period by submitting to CBP the declaration of compliance described in §10.848 of this subpart within 30 days following the end of the applicable one-year period. An importer that is required to submit a declaration of compliance under this paragraph must submit such a declaration for each importer of record identification number used by that importer. A declaration of compliance required under this paragraph must be sent to the address set forth in §10.848(a) of this subpart.

(B) *Contents.* A declaration of compliance required under paragraph (a)(4)(v)(A) of this section must include, in addition to the information specified in §10.848(c) of this subpart, a statement as to whether the increased value-content percentage was required because the apparel articles failed to meet the production standards or the applicable value-content requirement or because the producer or entity controlling production was a new producer or entity controlling production that elected to use the annual aggregation method.

(C) *Effect of noncompliance.* If an importer fails to submit to CBP the declaration of compliance required under paragraph (a)(4)(v)(A) of this section within 30 days following the end of the applicable one-year period during which the increased value-content percentage was met for apparel articles of a producer or entity controlling production, CBP may deny duty-free treatment to all apparel articles, as described in §10.843(a) of this subpart, of that producer or entity controlling production that are entered by that importer during the next succeeding applicable one-year period. Additionally, the timely submission of a declaration of compliance is a prerequisite for a producer or entity controlling production to request retroactive application of duty-free treatment under §10.845 of this subpart for apparel articles that meet the increased value-content percentage during an applicable one-year period. However, the submission of a declaration of compliance is not a substitute for filing a request for liquidation or reliquidation of an entry for which retroactive duty-free treatment is sought under §10.845 of this subpart.

(5) *Inclusion of the cost of fabrics or yarns not available in commercial quantities in value-content requirement.* For purposes of meeting the applicable value-content requirement set forth in paragraph (a) of this section, either in regard to individual entries or entries entered in the aggregate, the following costs may be included:

(i) The cost of fabrics or yarns to the extent that apparel articles of such fabrics or yarns would be eligible for preferential treatment, without regard to the source of the fabrics or yarns, under Annex 401 of the NAFTA; and

(ii) The cost of fabrics or yarns (without regard to their source) that are designated as not being available in commercial quantities for purposes of:

(A) Section 213(b)(2)(A)(v) of the CBERA (19 U.S.C. 2703(b)(2)(A)(v));

(B) Section 112(b)(5) of the African Growth and Opportunity Act (19 U.S.C. 3721(b)(5));

(C) Section 204(b)(3)(B)(i)(III) or 204(b)(3)(B)(ii) of the Andean Trade Preference Act (19 U.S.C. 3203(b)(3)(B)(i)(III) or 3203(b)(3)(B)(ii)); or

(D) Any other provision, relating to determining whether a textile or apparel article is an originating good eligible for preferential treatment, of a law that implements a free trade agreement that enters into force with respect to the United States.

(b) *Wiring sets.* An article described in §10.843(d) of this subpart will be eligible for duty-free treatment during the five-year period ending on December 19, 2011, only if the sum of the cost or value of the materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, plus the direct costs of processing operations performed in Haiti or the United States, or both, is not less than 50 percent of the declared customs value of the article.

(c) *Eligible countries described.* As used in this section, the term “eligible countries” includes:

(1) The United States;

(2) Israel, Canada, Mexico, Jordan, Singapore, Chile, Australia, Morocco, Bahrain, El Salvador, Honduras, Nicaragua, Guatemala, Dominican Republic, and any other country that is a

party to a free trade agreement with the United States that is in effect on December 20, 2006, or that enters into force thereafter; and

(3) The designated beneficiary countries listed in General Notes 11 (Andean Trade Preference Act), 16 (African Growth and Opportunity Act), and 17 (Caribbean Basin Trade Partnership Act) of the HTSUS.

(d) *Cost or value of materials*—(1) *Materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section defined*—(i) *Certain apparel articles*. As used in paragraph (a) of this section, the words “materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section” refer to those materials incorporated into an article that are either:

(A) Wholly obtained or produced, within the meaning of §102.1(g) of this chapter, in Haiti or one or more eligible countries described in paragraph (c) of this section; or

(B) Determined to originate in Haiti or one or more eligible countries described in paragraph (c) of this section by application of the provisions of §102.21 of this chapter.

(ii) *Wiring sets*. As used in paragraph (b) of this section, the words “materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section” refer to those materials incorporated into an article that are either:

(A) Wholly the growth, product, or manufacture of Haiti or one or more eligible countries described in paragraph (c) of this section; or

(B) Substantially transformed in Haiti or one or more eligible countries described in paragraph (c) of this section into a new or different article of commerce which is then used in Haiti in the production of a new or different article of commerce that is imported into the United States.

(2) *Determination of cost or value of materials*—(i) *Costs included*. (A) For purposes of paragraphs (a) and (b) of this section, and subject to paragraphs (d)(2)(i)(B) and (d)(2)(ii) of this section, the cost or value of materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section includes:

(1) The manufacturer’s actual cost for the materials;

(2) When not included in the manufacturer’s actual cost for the materials, the freight, insurance, packing, and all other costs incurred in transporting the materials to the manufacturer’s plant;

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

(4) Taxes and/or duties imposed on the materials by Haiti or one or more eligible countries described in paragraph (c) of this section, provided they are not remitted upon exportation.

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

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

(2) An amount for profit; and

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

(ii) *Costs deducted in regard to certain apparel articles*. For purposes of paragraph (a) of this section, in calculating the cost or value of materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section, either in regard to individual entries or entries entered in the aggregate, deductions are to be made for the cost or value of:

(A) Any foreign materials used in the production of the apparel articles in Haiti; and

(B) Any foreign materials used in the production of the materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section.

(e) *Direct costs of processing operations*—(1) *Items included*. As used in paragraphs (a) and (b) 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 articles 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 articles:

(i) All actual labor costs involved in the growth, production, manufacture, or assembly of the specific articles, 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 articles;

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

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

(2) *Items not included.* The words “direct costs of processing operations” do not include items that are not directly attributable to the articles 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 that either are not allocable to the specific articles or are not related to the growth, production, manufacture, or assembly of the articles, such as administrative salaries, casualty and liability insurance, advertising, and salesmen’s salaries, commissions, or expenses.

[CBP Dec. 07-43, 72 FR 34369, June 22, 2007, as amended at CBP Dec. 08-24, 73 FR 56728, Sept. 30, 2008]

§ 10.845 Retroactive application of duty-free treatment for certain apparel articles.

(a) *General.* Notwithstanding 19 U.S.C. 1514 or any other provision of law, if apparel articles, as described in § 10.843(a) of this subpart, of a producer or entity controlling production are ineligible for duty-free treatment in an applicable one-year period because the apparel articles of the producer or entity controlling production did not meet the requirements of § 10.843(a) of this subpart or the applicable value-content requirement set forth in § 10.844(a) of this subpart, and the apparel articles of the producer or entity controlling production satisfy the increased value-content percentage set forth in

§ 10.844(a)(4)(iii) of this subpart in that same applicable one-year period, the entry of any such articles made during that applicable one-year period will be liquidated or reliquidated free of duty, and CBP will refund any customs duties paid with respect to such entry, with interest accrued from the date of entry, provided that the conditions and requirements set forth in paragraph (b) of this section are met.

(b) *Conditions and requirements.* The conditions and requirements referred to in paragraph (a) of this section are as follows:

(1) The articles in such entry would have received duty-free treatment if they had satisfied the requirements of § 10.843(a) and the applicable value-content requirement set forth in § 10.844(a) of this subpart;

(2) A declaration of compliance with the increased value-content percentage is submitted to CBP within 30 days following the end of the applicable one-year period during which the increased percentage is met (*see* § 10.844(a)(4)(v) of this subpart); and

(3) A request for liquidation or reliquidation with respect to such entry is filed with CBP before the 90th day after CBP determines and notifies the importer that the apparel articles of the producer or entity controlling production satisfy the increased value-content percentage set forth in § 10.844(a)(4)(iii) of this subpart during that applicable one-year period.

Example. A Haitian producer of articles that meet the description in § 10.843(a) of this subpart begins exporting those articles to the United States during the initial applicable one-year period and elects to use the annual aggregation method for purposes of meeting the applicable value-content requirement. The articles entered during that initial period meet a value-content percentage of 48%, while articles entered during the second applicable one-year period meet a value-content percentage of 62%. The producer’s articles may not receive duty-free treatment during the initial applicable one-year period because the requisite 50% value-content requirement was not met. The producer’s articles also are ineligible for duty-free treatment during the second applicable one-year period because the 50% value-content requirement was not met in the immediately preceding period (the initial applicable one-year period). However, because the producer’s articles entered during the second

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applicable one-year period satisfy the increased value-content percentage requirement (60%), the importer(s) of these articles may file a request for and receive a refund of the duties paid with respect to the articles entered during that period, assuming compliance with the conditions and requirements set forth in §10.847 of this subpart. In addition, the producer's articles entered during the third applicable one-year period are eligible for duty-free treatment based on compliance with the increased value-content percentage in the second applicable one-year period.

§ 10.846 Imported directly.

(a) *General.* To be eligible for duty-free treatment under this subpart, an article must be imported directly from Haiti into the customs territory of the United States. For purposes of this requirement, the words "imported directly" mean:

(1) Direct shipment from Haiti to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Haiti to the United States through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, the articles in the shipment are imported directly only if they:

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

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

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

(b) *Documentary evidence.* An importer making a claim for duty-free treatment under §10.847 of this subpart may be required to demonstrate, to

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CBP's satisfaction, that the articles were "imported directly" as that term is defined in paragraph (a) of this section. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

§ 10.847 Filing of claim for duty-free treatment.

(a) *General.* An importer may make a claim for duty-free treatment for an article described in §10.843 of this subpart by including on the entry summary, or equivalent documentation, the applicable subheading within Subchapter XX of Chapter 98 of the HTSUS under which the article is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system. The applicable subheadings within Subchapter XX, Chapter 98, HTSUS, are as follows:

(1) Subheading 9820.61.25 for apparel articles described in §10.843(a) of this subpart for which the individual entry method is used for purposes of meeting the applicable value-content requirement set forth in §10.844(a) of this subpart;

(2) Subheading 9820.61.30 for apparel articles described in §10.843(a) of this subpart for which the annual aggregation method is used for purposes of meeting the applicable value-content requirement set forth in §10.844(a) of this subpart;

(3) Subheading 9820.62.05 for apparel articles described in §10.843(b) of this subpart;

(4) Subheading 9820.62.12 for brasieres described in §10.843(c) of this subpart;

(5) Subheading 9820.61.35 for apparel articles described in §10.843(d) of this subpart;

(6) Subheading 9820.61.40 for apparel articles described in §10.843(e) of this subpart;

(7) Subheading 9820.42.05 for articles described in §10.843(f) of this subpart;

(8) Subheading 9820.65.05 for articles described in §10.843(g) of this subpart;

(9) Subheading 9820.62.20 for articles described in §10.843(h) of this subpart;

(10) Subheading 9820.62.25 for articles described in § 10.843(i) of this subpart;

(11) Subheading 9820.62.30 for articles described in § 10.843(j) of this subpart; and

(12) Subheading 9820.85.44 for wiring sets described in § 10.843(k) of this subpart.

(b) *Restriction on claims submitted under subheading 9820.61.30, HTSUS.* An importer may make a claim for duty-free treatment under subheading 9820.61.30, HTSUS, for apparel articles described in § 10.843(a) of this subpart for which the annual aggregation method is used, only if the importer has a copy of a certification by the producer or entity controlling production setting forth its election to use the annual aggregation method for its articles (see § 10.848(c)(3) of this subpart). In the absence of receipt of such certification from the producer or entity controlling production, an importer of articles described in § 10.843(a) of this subpart for which duty-free treatment is sought under this subpart must enter the articles under subheading 9820.61.25, HTSUS.

(c) *Corrected claim.* If, after making a claim for duty-free treatment under paragraph (a) of this section, the importer has reason to believe that the claim is incorrect, the importer must promptly make a corrected claim and pay any duties that may be due. A corrected claim will be effected by submission of a letter or other written statement to the CBP port where the claim was originally filed.

[CBP Dec. 07-43, 72 FR 34369, June 22, 2007, as amended at CBP Dec. 08-24, 73 FR 56728, Sept. 30, 2008]

§ 10.848 Declaration of compliance.

(a) *General.* Each importer claiming duty-free treatment for apparel articles, as described in § 10.843(a) of this subpart, of a producer or entity controlling production that uses the annual aggregation method to satisfy the applicable value-content requirement set forth in § 10.844(a) of this subpart with respect to the entries filed by the importer during an applicable one-year period must prepare and submit to CBP a declaration of compliance with the applicable value-content requirement within 30 days following the end of the

applicable one-year period. An importer that is required to submit a declaration of compliance under this paragraph must submit such a declaration for each importer of record identification number used by that importer. The declaration of compliance must be sent to: Office of International Trade, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(b) *Effect of noncompliance—(1) Initial applicable one-year period.* If an importer fails to submit to CBP the declaration of compliance required under paragraph (a) of this section within 30 days following the end of the initial applicable one-year period, CBP may deny duty-free treatment to all entries of apparel articles, as described in § 10.843(a), of that producer or entity controlling production that were filed by that importer during the initial applicable one-year period and that are entered by that importer during the next succeeding applicable one-year period.

(2) *Other applicable one-year periods.* If an importer fails to submit to CBP the declaration of compliance required by paragraph (a) of this section within 30 days following the end of any applicable one-year period (other than the initial applicable one-year period), CBP may deny duty-free treatment to all entries of apparel articles, as described in § 10.843(a) of this subpart, of that producer or entity controlling production that are entered by that importer during the next succeeding applicable one-year period.

(c) *Contents.* A declaration of compliance submitted to CBP under paragraph (a) of this section:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must include the following information:

(i) The applicable one-year period during which the aggregation method was used (year beginning December 20, 20__, year ending December 19, 20__);

(ii) The legal name, address, telephone, fax number, e-mail address (if any), and identification number of the importer of record, and the legal name,

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telephone, and e-mail address (if any) of the point of contact;

(iii) With respect to each entry for which duty-free treatment is claimed for apparel articles described in § 10.843(a) of this subpart and for which the aggregation method is used, the entry number, line number(s), port of entry, and line value;

(iv) If the producer or entity controlling production elects to include in the aggregation calculation entries of brasieres receiving duty-free treatment under § 10.843(c) of this subpart and entries of apparel articles that are wholly assembled or knit-to-shape in Haiti and that are receiving preferential tariff treatment under any provision of law other than section 213A of the CBERA or are subject to the rate of duty in the “General” subcolumn of column 1 of the HTSUS (*see* § 10.844(a)(2)(iii)(B) and (C) of this subpart), the entry number, line number(s), port of entry, line value, name and address of the producer(s), and, if applicable, name and address of the entity controlling production;

(v) The value-content percentage that was met during the applicable one-year period with respect to each producer or entity controlling production;

(vi) The name and title of the person who prepared the declaration of compliance. The declaration must be prepared and signed by a responsible official of the importer or by the importer’s authorized agent having knowledge of the relevant facts;

(vii) Signature of the person who prepared the declaration of compliance; and

(viii) Date the declaration of compliance was prepared and signed; and

(3) Must include as an attachment to the declaration a copy of a certification from each producer or entity controlling production setting forth its election to use the annual aggregation method, a description of the classes or kinds of apparel articles involved, and the name and address of each producer or entity controlling production.

§ 10.849 Importer obligations.

(a) *General.* An importer who makes a claim for duty-free treatment under

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§ 10.847 of this subpart for an article described in § 10.843 of this subpart:

(1) Will be deemed to have certified that the article is eligible for duty-free treatment under this subpart;

(2) Is responsible for the truthfulness of the statements and information contained in the declaration of compliance, if that document is required to be submitted to CBP pursuant to §§ 10.844(a)(4)(v) or 10.848(a) of this subpart; and

(3) Is responsible for submitting any supporting documents requested by CBP and for the truthfulness of the information contained in those documents. When requested, CBP may arrange for the direct submission by the exporter, producer, or entity controlling production of business confidential or other sensitive information, including cost and sourcing information.

(b) *Information provided by exporter, producer, or entity controlling production.* The fact that the importer has made a claim for duty-free treatment or prepared a declaration of compliance based on information provided by an exporter, producer, or entity controlling production will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

§ 10.850 Verification of claim for duty-free treatment.

(a) *General.* A claim for duty-free treatment made under § 10.847 of this subpart, including any declaration of compliance or other information submitted to CBP in support of the claim, will be subject to whatever verification CBP deems necessary. In the event that CBP is provided with insufficient information to verify or substantiate the claim, including the statements and information contained in a declaration of compliance (if required under § 10.844(a)(4)(v) or § 10.848(a) of this subpart), CBP may deny the claim for duty-free treatment.

(b) *Documentation and information subject to verification.* A verification of a claim for duty-free treatment under § 10.847 of this subpart may involve, but need not be limited to, a review of:

(1) All records required to be made, kept, and made available to CBP by the

importer, the producer, the entity controlling production, or any other person under part 163 of this chapter; and

(2) The documentation and information set forth in paragraphs (b)(2)(i) through (b)(2)(v) of this section, when requested by CBP. This documentation and information may be made available to CBP by the importer or the importer may arrange to have the documentation and information made available to CBP directly by the exporter, producer, or entity controlling production:

(i) Documentation and other information regarding all apparel articles that meet the requirements specified in §10.843(a) of this subpart that were exported to the United States and that were entered during the applicable one-year period, whether or not a claim for duty-free treatment was made under §10.847 of this subpart. Those records and other information include, but are not limited to, work orders and other production records, purchase orders, invoices, bills of lading and other shipping documents;

(ii) Records to document the cost of all yarn, fabric, fabric components, and knit-to-shape components that were used in the production of the articles in question, such as purchase orders, invoices, bills of lading and other shipping documents, and customs import and clearance documents, work orders and other production records, and inventory control records;

(iii) Records to document the direct costs of processing operations performed in Haiti or one or more eligible countries described in §10.844(c) of this subpart, such as direct labor and fringe expenses, machinery and tooling costs, factory expenses, and testing and inspection expenses that were incurred in production;

(iv) Affidavits or statements of origin that certify who manufactured the yarn, fabric, fabric components and knit-to-shape components. The affidavit or statement of origin should include a product description, name and address of the producer, and the date the articles were produced. An affidavit for fabric components should state whether or not subassembly operations occurred; and

(v) Summary accounting and financial records which relate to the source records provided for in paragraphs (b)(2)(i) through (b)(2)(iii) of this section.

Subpart P—United States-Oman Free Trade Agreement

SOURCE: CBP Dec. 11-01, 76 FR 701, Jan. 6, 2011, unless otherwise noted.

GENERAL PROVISIONS

§ 10.861 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Oman Free Trade Agreement (the OFTA) signed on January 19, 2006, and under the United States-Oman Free Trade Agreement Implementation Act (the Act; 120 Stat. 1191). Except as otherwise specified in this subpart, the procedures and other requirements set forth in this subpart are in addition to the customs procedures and requirements of general application contained elsewhere in this chapter. Additional provisions implementing certain aspects of the OFTA and the Act are contained in Parts 24, 162, and 163 of this chapter.

§ 10.862 General definitions.

As used in this subpart, the following terms will have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular section of this subpart:

(a) *Claim for preferential tariff treatment*. “Claim for preferential tariff treatment” means a claim that a good is entitled to the duty rate applicable under the OFTA to an originating good or other good specified in the OFTA, and to an exemption from the merchandise processing fee;

(b) *Customs duty*. “Customs duty” includes any customs or import duty and a charge of any kind imposed in connection with the importation of a good, including any form of surtax or surcharge in connection with such importation, but does not include any:

(1) Charge equivalent to an internal tax imposed consistently with Article III:2 of the GATT 1994, in respect of