

**Effective Date**

(a) This airworthiness directive (AD) becomes effective August 3, 2007.

**Affected ADs**

(b) None.

**Applicability**

(c) This AD applies to EMBRAER Model ERJ 170-100 LR, -100 STD, -100 SE, -100 SU, -200 LR, -200 STD, and -200 SU airplanes, as identified in EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005; certificated in any category.

**Reason**

(d) The MCAI states that it has been found the occurrence of one case of obstruction at the cargo compartment fire extinguisher system drier metering unit (DMU) inlet, affecting the system effectiveness and, consequently, making the fire extinguishing capability at those compartments inadequate should a fire erupt. The MCAI requires installation of a debris strainer at the DMU inlet.

**Actions and Compliance**

(e) Unless already done, do the following actions. Within 700 flight hours after the effective date of this AD, install a debris strainer at the DMU inlet, in accordance with the detailed instructions and procedures described in EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005.

**FAA AD Differences**

**Note:** This AD differs from the MCAI and/or service information as follows: No Differences.

**Other FAA AD Provisions**

(f) The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, International Branch, ANM-116, Transport Airplane Directorate, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Todd Thompson, Aerospace Engineer, International Branch, ANM-116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057-3356; telephone (425) 227-1175; fax (425) 227-1149. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, under the provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120-0056.

**Related Information**

(g) Refer to MCAI Brazilian Airworthiness Directive 2006-01-03, effective February 7, 2006; and EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005; for related information.

**Material Incorporated by Reference**

(h) You must use EMBRAER Service Bulletin 170-26-0002, dated November 11, 2005, to do the actions required by this AD, unless the AD specifies otherwise.

(1) The Director of the Federal Register approved the incorporation by reference of this service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) For service information identified in this AD, contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil.

(3) You may review copies at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the National Archives and Records Administration (NARA). For information on the availability of this material at NARA, call 202-741-6030, or go to: <http://www.archives.gov/federal-register/cfr/ibr-locations.html>.

Issued in Renton, Washington, on June 18, 2007.

**Ali Bahrami,**

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7-12221 Filed 6-28-07; 8:45 am]

**BILLING CODE 4910-13-P**

**DEPARTMENT OF HOMELAND SECURITY****U.S. Customs and Border Protection****DEPARTMENT OF THE TREASURY****19 CFR Parts 10, 162, 163, and 178**

[USCBP-2007-0056; CBP Dec. 07-51]

**RIN 1505-AB76**

**United States-Morocco Free Trade Agreement**

**AGENCIES:** U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

**ACTION:** Interim regulations; solicitation of comments.

**SUMMARY:** This document amends U.S. Customs and Border Protection ("CBP") regulations on an interim basis to implement the preferential tariff treatment and other customs-related provisions of the United States-Morocco Free Trade Agreement entered into by the United States and the Kingdom of Morocco.

**DATES:** Interim rule effective June 29, 2007; comments must be received by August 28, 2007.

**ADDRESSES:** You may submit comments, identified by *docket number*, by *one* of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the instructions for submitting comments via docket number USCBP-2007-0056.

- *Mail:* Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW., (Mint Annex), Washington, DC 20229.

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the "Public Participation" heading of the **SUPPLEMENTARY INFORMATION** section of this document.

*Docket:* For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>. Submitted comments may also be inspected during regular business days between the hours of 9 a.m. and 4:30 p.m. at the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 799 9th Street, NW., (5th Floor), Washington, DC. Arrangements to inspect submitted comments should be made in advance by calling Mr. Joseph Clark at (202) 572-8768.

**FOR FURTHER INFORMATION CONTACT:**

*Textile Operational Aspects:* Robert Abels, Office of International Trade, (202) 344-1959.

*Other Operational Aspects:* Seth Mazze, Office of International Trade, (202) 344-2634.

*Audit Aspects:* Mark Hanson, Regulatory Audit, Office of International Trade, (202) 863-6035.

*Legal Aspects:* Daniel Cornette, Office of International Trade, (202) 572-8731.

**SUPPLEMENTARY INFORMATION:****Public Participation**

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments on all aspects of the interim rule. CBP also invites comments that relate to the economic, environmental, or federalism effects that might result from this interim rule. Comments that will provide the most assistance to CBP will reference a specific portion of the interim rule, explain the reason for any recommended change, and include data,

information, or authority that supports such recommended change. See **ADDRESSES** above for information on how to submit comments.

### Background

On June 15, 2004, the United States and the Kingdom of Morocco (the "Parties") signed the U.S.-Morocco Free Trade Agreement ("MFTA" or "Agreement"). The stated objectives of the MFTA are to: Encourage expansion and diversification of trade between the Parties; eliminate barriers to trade in, and facilitate the cross-border movement of, goods and services between the territories of the Parties; promote conditions of fair competition in the free trade area; substantially increase investment opportunities in the territories of the Parties; provide adequate and effective protection and enforcement of intellectual property rights in each Party's territory; create effective procedures for the implementation and application of the MFTA, for its joint administration and for the resolution of disputes; and establish a framework for further regional and multilateral cooperation to expand and enhance the benefits of the MFTA.

The provisions of the MFTA were adopted by the United States with the enactment of the United States-Morocco Free Trade Agreement Implementation Act (the "Act"), Pub. L. 108-302, 118 Stat. 1103 (19 U.S.C. 3805 note), on August 17, 2004. Section 205 of the Act requires that regulations be prescribed as necessary to implement these provisions of the MFTA.

On December 22, 2005, the President signed Proclamation 7971 to implement the provisions of the MFTA. The proclamation, which was published in the **Federal Register** on December 27, 2005 (70 FR 76649), modified the Harmonized Tariff Schedule of the United States ("HTSUS") as set forth in Annexes I and II of Publication 3721 of the U.S. International Trade Commission. The modifications to the HTSUS included the addition of new General Note 27, incorporating the relevant MFTA rules of origin as set forth in the Act, and the insertion throughout the HTSUS of the preferential duty rates applicable to individual products under the MFTA where the special program indicator "MA" appears in parenthesis in the "Special" rate of duty subcolumn. The modifications to the HTSUS also included a new Subchapter XII to Chapter 99 to provide for temporary tariff rate quotas and applicable safeguards implemented by the MFTA.

U.S. Customs and Border Protection ("CBP") is responsible for administering the provisions of the MFTA and the Act that relate to the importation of goods into the United States from Morocco. Those customs-related MFTA provisions that require implementation through regulation include certain tariff and non-tariff provisions within Chapter One (Initial Provisions and Definitions), Chapter Two (National Treatment and Market Access for Goods), Chapter Four (Textiles and Apparel), Chapter Five (Rules of Origin), and Chapter Six (Customs Administration).

In Chapter One of the MFTA, certain general definitions in Article 1.3 have been incorporated into the MFTA implementing regulations. These regulations also implement Article 2.6 (Goods Re-entered after Repair or Alteration) of Chapter Two of the MFTA.

Chapter Four of the MFTA sets forth the measures relating to trade in textile and apparel goods between Morocco and the United States under the MFTA. The provisions within Chapter Four that require regulatory action by CBP are Article 4.3 (Rules of Origin and Related Matters), Article 4.4 (Customs and Administrative Cooperation), and Article 4.5 (Definitions).

Chapter Five of the MFTA sets forth the rules for determining whether an imported good qualifies as an originating good of the United States or Morocco (MFTA Party) and, as such, is therefore eligible for preferential tariff (duty-free or reduced duty) treatment as specified in the Agreement. Under Article 5.1, originating goods may be grouped in three broad categories: (1) Goods that are wholly the growth, product, or manufacture of one or both of the Parties; (2) goods (other than those covered by the product-specific rules set forth in Annex 4-A or Annex 5-A) that are new or different articles of commerce that have been grown, produced, or manufactured in the territory of one or both of the Parties, and that have a minimum value-content, *i.e.*, at least 35 percent of the good's appraised value must be attributed to the cost or value of materials produced in one or both of the Parties plus the direct costs of processing operations performed in one or both of the Parties; and (3) goods that satisfy the product-specific rules set forth in Annex 4-A (textile or apparel goods) or Annex 5-A (certain non-textile or non-apparel goods).

Article 5.2 explains that the term "new or different article of commerce" means a good that has been substantially transformed from a good or material that is not wholly the growth,

product, or manufacture of one or both of the Parties and that has a new name, character, or use distinct from the good or material from which it was transformed. Article 5.3 provides that a good will not be considered to be a new or different article of commerce as the result of undergoing simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good.

Article 5.4 provides for the accumulation of production in the territory of one or both of the Parties in determining whether a good qualifies as originating under the MFTA. Articles 5.5 and 5.6 set forth the rules for calculating the value of materials and the direct costs of processing operations, respectively, for purposes of determining whether a good satisfies the 35 percent value-content requirement.

Articles 5.7 through 5.9 consist of additional sub-rules applicable to originating goods, involving retail packaging materials, packing materials for shipment, indirect materials, and transit and transshipment. In addition, Articles 5.10 and 5.11 set forth the procedural requirements that apply under the MFTA, in particular with regard to importer claims for preferential tariff treatment. Article 5.14 provides definitions of certain of the terms used in Chapter Five of the MFTA. The basic rules of origin in Chapter Five of the MFTA are set forth in General Note 27, HTSUS.

Chapter Six sets forth the customs operational provisions related to the implementation and administration of the MFTA.

In order to provide transparency and facilitate their use, the majority of the MFTA implementing regulations set forth in this document have been included within new Subpart M in Part 10 of the CBP regulations (19 CFR Part 10). However, in those cases in which MFTA implementation is more appropriate in the context of an existing regulatory provision, the MFTA regulatory text has been incorporated in an existing Part within the CBP regulations. In addition, this document sets forth several cross-references and other consequential changes to existing regulatory provisions to clarify the relationship between those existing provisions and the new MFTA implementing regulations. The regulatory changes are discussed below in the order in which they appear in this document.

## Discussion of Amendments

### Part 10

Section 10.31(f) concerns temporary importations under bond. It is amended by adding references to certain goods originating in Morocco for which, like goods originating in Canada, Mexico, Singapore and Chile, no bond or other security will be required when imported temporarily for prescribed uses. The provisions of MFTA Article 2.5 (temporary admission of goods) are already reflected in existing temporary importation bond or other provisions contained in Part 10 of the CBP regulations and in Chapter 98 of the HTSUS.

### Part 10, Subpart M

#### General Provisions

Section 10.761 outlines the scope of new Subpart M, Part 10. This section also clarifies that, except where the context otherwise requires, the requirements contained in Subpart M, Part 10 are in addition to general administrative and enforcement provisions set forth elsewhere in the CBP regulations. Thus, for example, the specific merchandise entry requirements contained in Subpart M, Part 10 are in addition to the basic entry requirements contained in Parts 141–143 of the CBP regulations.

Section 10.762 sets forth definitions of common terms used in multiple contexts or places within Subpart M, Part 10. Although the majority of the definitions in this section are based on definitions contained in Article 1.3 of the MFTA and § 3 of the Act, other definitions have also been included to clarify the application of the regulatory texts. Additional definitions which apply in a more limited Subpart M, Part 10 context are set forth elsewhere with the substantive provisions to which they relate.

#### Import Requirements

Section 10.763 sets forth the procedure for claiming MFTA tariff benefits at the time of entry.

Section 10.764, as provided in MFTA Article 5.10(b), requires a U.S. importer, upon request, to submit a declaration setting forth all pertinent information concerning the growth, production, or manufacture of the good. Included in § 10.764 is a provision that the declaration may be used either for a single importation or for multiple importations of identical goods.

Section 10.765 sets forth certain importer obligations regarding the truthfulness of information and documents submitted in support of a

claim for preferential tariff treatment under the MFTA. As provided in MFTA Article 5.10(a), this section states that a U.S. importer who makes a claim for preferential tariff treatment for a good is deemed to have certified that the good qualifies for such treatment.

Section 10.766 provides that the importer's declaration is not required for certain non-commercial or low-value importations.

Section 10.767 implements the portion of MFTA Article 5.10 concerning the maintenance of records necessary for the preparation of the declaration.

Section 10.768, which is based on MFTA Article 5.11.1, provides for the denial of MFTA tariff benefits if the importer fails to comply with any of the requirements of Subpart M, Part 10, CBP regulations.

#### Rules of Origin

Sections 10.769 through 10.777 provide the implementing regulations regarding the rules of origin provisions of General Note 27, HTSUS, Article 4.3 and Chapter Five of the MFTA, and § 203 of the Act.

#### Definitions

Section 10.769 sets forth terms that are defined for purposes of the rules of origin. CBP notes that, pursuant to letters of understanding exchanged between the Parties on June 15, 2004, in determining whether a good meets the definition of a “new or different article of commerce” in paragraph (i) of § 10.769, the United States may be guided by the rules of origin set forth in Part 102, CBP regulations (19 CFR Part 102).

#### General Rules of Origin

Section 10.770 includes the basic rules of origin established in Article 5.1 of the MFTA, section 203(b) of the Act, and General Note 27(b), HTSUS.

Paragraph (a) of § 10.770 sets forth the three basic categories of goods that are considered originating goods under the MFTA. Paragraph (a)(1) of § 10.770 specifies those goods that are considered originating goods because they are wholly the growth, product, or manufacture of one or both of the Parties. Paragraph (a)(2) provides that goods are considered originating goods if they: (1) Are new or different articles of commerce that have been grown, produced, or manufactured in the territory of one or both of the Parties; (2) are classified in HTSUS provisions that are not covered by the product-specific rules set forth in General Note 27(h), HTSUS; and (3) meet a 35 percent value-content requirement. Finally,

paragraph (a)(3) states that goods are considered originating goods if: (1) They are classified in HTSUS provisions that are covered by the product-specific rules set forth in General Note 27(h), HTSUS; (2) each non-originating material used in the production of the good in the territory of one or both of the Parties undergoes an applicable change in tariff classification or otherwise satisfies the requirements specified in General Note 27(h), HTSUS; and (3) the goods meet any other requirements specified in General Note 27, HTSUS.

Paragraph (b) of § 10.770 sets forth the basic rules that apply for purposes of determining whether a good satisfies the 35 percent value-content requirement referred to in § 10.770(a)(2).

Paragraph (c) of § 10.770 implements Article 5.3 of the MFTA, relating to the simple combining or packaging or mere dilution exceptions to the “new or different article of commerce” requirement of § 10.770(a)(2). Since the language in Article 5.3 of the MFTA (and § 203(i)(7)(B) of the Act) is nearly identical to the language found in § 213(a)(2) of the Caribbean Basin Economic Recovery Act (“CBERA”) (19 U.S.C. 2703(a)(2)), § 10.770(c) incorporates by reference the examples and principles set forth in § 10.195(a)(2) of CBP's implementing CBERA regulations.

#### Originating Textile or Apparel Goods

Section 10.771(a), as provided for in Article 4.3.7 of the MFTA, sets forth a *de minimis* rule for certain textile or apparel goods that may be considered to qualify as originating goods even though they fail to satisfy the applicable change in tariff classification set out in General Note 27(h). This paragraph also includes an exception to the *de minimis* rule.

Section 10.771(b), which is based on Article 4.3.8 of the MFTA, sets forth a special rule for textile or apparel goods classifiable under General Rule of Interpretation 3, HTSUS, as goods put up in sets for retail sale.

#### Accumulation

Section 10.772, which is derived from MFTA Article 5.4, sets forth the rule by which originating goods or materials from the territory of a Party that are used in the production of a good in the territory of the other Party will be considered to originate in the territory of such other Party. In addition, this section also establishes that a good or material that is produced by one or more producers in the territory of one or both of the Parties is an originating good or material if the article satisfies all of

the applicable requirements of the rules of origin of the MFTA.

#### Value of Materials

Section 10.773 implements Article 5.5 of the MFTA, relating to the calculation of the value of materials that may be applied toward satisfaction of the 35 percent value-content requirement.

#### Direct Costs of Processing Operations

Section 10.774, which reflects Article 5.6 of the MFTA, sets forth provisions regarding the calculation of direct costs of processing operations for purposes of the 35 percent value-content requirement.

#### Packaging and Packing Materials and Containers for Retail Sale and for Shipment

Section 10.775 is based on Article 5.7 of the MFTA and provides that retail packaging materials and packing materials for shipment are to be disregarded in determining whether a good qualifies as originating under the MFTA, except to the extent that the value of such packaging and packing materials may be included for purposes of meeting the 35 percent value-content requirement.

#### Indirect Materials

Section 10.776, which is derived from Article 5.8 of the MFTA, provides that indirect materials will be disregarded in determining whether a good qualifies as an originating good under the MFTA, except to the extent that the cost of such indirect materials may be included toward satisfying the 35 percent value-content requirement.

#### Imported Directly

Section 10.777(a) sets forth the basic rule, found in Article 5.1 of the MFTA, that a good must be imported directly from the territory of a Party into the territory of the other Party to qualify as an originating good under the MFTA. This paragraph further provides that, as set forth in Article 5.9 of the MFTA, a good will not be considered to be imported directly if, after exportation from the territory of a Party, the good undergoes production, manufacturing, or any other operation outside the territories of the Parties, other than certain minor operations.

Paragraph (b) of § 10.777 provides that an importer making a claim for preferential tariff treatment under the MFTA may be required to demonstrate, through the submission of documentary evidence, that the “imported directly” requirement was satisfied.

#### Tariff Preference Level

Section 10.778 sets forth the procedures for claiming MFTA tariff benefits for non-originating fabric or apparel goods entitled to preference under an applicable tariff preference level (“TPL”).

Section 10.779, which is based on Articles 4.3.9 and 4.3.10, describes the non-originating fabric and apparel goods that are eligible for TPL claims under the MFTA.

Section 10.780 provides for the denial of a TPL claim if the importer fails to comply with any applicable requirement under Subpart M, Part 10, CBP regulations, including the failure to provide documentation, when requested by CBP, establishing that the good was imported directly from the territory of a Party into the territory of the other Party.

Section 10.781 establishes that non-originating fabric or apparel goods are entitled to preferential tariff treatment under an applicable TPL only if they are imported directly from the territory of a Party into the territory of the other Party.

#### Origin Verifications and Determinations

Section 10.784 implements MFTA Article 5.11.2 by providing that a claim for MFTA preferential tariff treatment, including any information submitted in support of the claim, will be subject to such verification as CBP deems necessary. This section further sets forth the circumstances under which a claim may be denied based on the results of the verification.

Section 10.785, which is based on Article 4.4 of the MFTA, concerns verifications conducted in Morocco by Moroccan authorities (at the request of CBP) relating to textile and apparel goods imported in the United States, whether or not a claim is made for MFTA preferential tariff treatment. U.S. officials may also assist in a verification in Morocco under this section. Section 10.785 also provides for specific actions to be taken by CBP during and after the verification, if directed by the Committee for the Implementation of Textile Agreements (CITA).

Section 10.786 implements MFTA Article 5.11.3 by providing that CBP will issue a determination to the importer when CBP determines that a claim for MFTA preferential tariff treatment should be denied based on the results of a verification. This section also prescribes the information required to be included in the determination.

#### Penalties

Section 10.787 concerns the general application of penalties to MFTA

transactions and is based on MFTA Article 6.9.

#### Goods Returned After Repair or Alteration

Section 10.788 implements MFTA Article 2.6 regarding duty treatment on goods re-entered after repair or alteration in Morocco.

#### Part 162

Part 162 contains regulations regarding the inspection and examination of, among other things, imported merchandise. A cross-reference is added to § 162.0, which is the scope section of the part, to refer readers to the additional MFTA records maintenance and examination provisions contained in new Subpart M, Part 10, CBP regulations.

#### Part 163

A conforming amendment is made to § 163.1 to include the maintenance of any documentation that the importer may have in support of a claim for preference under the MFTA as an activity for which records must be maintained. Also, the list of records and information required for the entry of merchandise appearing in the Appendix to Part 163 (commonly known as the (a)(1)(A) list) is also amended to add the MFTA records that the importer may have in support of a MFTA claim for preferential tariff treatment.

#### Part 178

Part 178 sets forth the control numbers assigned to information collections of CBP by the Office of Management and Budget, pursuant to the Paperwork Reduction Act of 1995, Public Law 104–13. The list contained in § 178.2 is amended to add the information collections used by CBP to determine eligibility for a tariff preference or other rights or benefits under the MFTA and the Act.

#### Inapplicability of Notice and Delayed Effective Date Requirements

Under section 553 of the Administrative Procedure Act (“APA”) (5 U.S.C. 553), agencies amending their regulations generally are required to publish a notice of proposed rulemaking in the **Federal Register** that solicits public comment on the proposed amendments, consider public comments in deciding on the final content of the final amendments, and publish the final amendments at least 30 days prior to their effective date. However, section 553(a)(1) of the APA provides that the standard prior notice and comment procedures and delayed effective date provisions of 5 U.S.C. 553(d) do not

apply to agency rulemaking that involves a foreign affairs function of the United States. CBP has determined that these interim regulations involve the foreign affairs function of the United States, as they implement preferential tariff treatment and related provisions of the MFTA. Therefore, the rulemaking requirements under the APA do not apply and this interim rule will be effective upon publication. However, CBP is soliciting comments in this interim rule and will consider all comments it receives before issuing a final rule.

#### Executive Order 12866 and Regulatory Flexibility Act

CBP has determined that this document is not a regulation or rule subject to the provisions of Executive Order 12866 of September 30, 1993 (58 FR 51735, October 1993), because it pertains to a foreign affairs function of the United States and implements an international agreement, as described above, and therefore is specifically exempted by section 3(d)(2) of Executive Order 12866. Because a notice of proposed rulemaking is not required under section 553(b) of the APA for the reasons described above, CBP notes that the provisions of the Regulatory Flexibility Act, as amended (5 U.S.C. 601 *et seq.*), do not apply to this rulemaking. Accordingly, CBP also notes that this interim rule is not subject to the regulatory analysis requirements or other requirements of 5 U.S.C. 603 and 604.

#### Paperwork Reduction Act

These regulations are being issued without prior notice and public procedure pursuant to the Administrative Procedure Act (5 U.S.C. 553). For this reason, the collections of information contained in these regulations have been reviewed and, pending receipt and evaluation of public comments, approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act (44 U.S.C. 3507) under control number 1651-0117.

The collections of information in these regulations are in §§ 10.763 and 10.764. This information is required in connection with claims for preferential tariff treatment and for the purpose of the exercise of other rights under the MFTA and the Act and will be used by CBP to determine eligibility for a tariff preference or other rights or benefits under the MFTA and the Act. The likely respondents are business organizations including importers, exporters and manufacturers.

*Estimated total annual reporting burden:* 800 hours.

*Estimated average annual burden per respondent:* 0.2 hours.

*Estimated number of respondents:* 4000.

*Estimated annual frequency of responses:* 1.

Comments concerning the collections of information and the accuracy of the estimated annual burden, and suggestions for reducing that burden, should be directed to the Office of Management and Budget, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

#### Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

#### List of Subjects

##### 19 CFR Part 10

Alterations, Bonds, Customs duties and inspection, Exports, Imports, Preference programs, Repairs, Reporting and recordkeeping requirements, Trade agreements.

##### 19 CFR Part 162

Administrative practice and procedure, Customs duties and inspection, Penalties, Trade agreements.

##### 19 CFR Part 163

Administrative practice and procedure, Customs duties and inspection, Export, Import, Reporting and recordkeeping requirements, Trade agreements.

##### 19 CFR Part 178

Administrative practice and procedure, Exports, Imports, Reporting and recordkeeping requirements.

#### Amendments to the CBP Regulations

■ Accordingly, chapter I of title 19, Code of Federal Regulations (19 CFR chapter I), is amended as set forth below.

#### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

■ 1. The general authority citation for Part 10 continues to read, and the

specific authority for Subpart M is added to read as follows:

**Authority:** 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1481, 1484, 1498, 1508, 1623, 1624, 3314;

\* \* \* \* \*

Sections 10.761 through 10.789 also issued under Pub. L. 108-302, 118 Stat. 1103 (19 U.S.C. 3805 note).

■ 2. In § 10.31, paragraph (f), the last sentence is revised to read as follows:

#### § 10.31 Entry; bond.

\* \* \* \* \*

(f) \* \* \* In addition, notwithstanding any other provision of this paragraph, in the case of professional equipment necessary for carrying out the business activity, trade or profession of a business person, equipment for the press or for sound or television broadcasting, cinematographic equipment, articles imported for sports purposes and articles intended for display or demonstration, if brought into the United States by a resident of Canada, Mexico, Singapore, Chile, or Morocco and entered under Chapter 98, Subchapter XIII, HTSUS, no bond or other security will be required if the entered article is a good originating, within the meaning of General Notes 12, 25, 26, or 27, HTSUS, in the country in which the importer is a resident.

\* \* \* \* \*

■ 3. Part 10, CBP regulations, is amended by adding Subpart M to read as follows:

#### Subpart M—United States-Morocco Free Trade Agreement

Sec.

##### General Provisions

10.761 Scope.  
10.762 General definitions.

##### Import Requirements

10.763 Filing of claim for preferential tariff treatment upon importation.  
10.764 Declaration.  
10.765 Importer obligations.  
10.766 Declaration not required.  
10.767 Maintenance of records.  
10.768 Effect of noncompliance; failure to provide documentation regarding transshipment.

##### Rules of Origin

10.769 Definitions.  
10.770 Originating goods.  
10.771 Textile or apparel goods.  
10.772 Accumulation.  
10.773 Value of materials.  
10.774 Direct costs of processing operations.  
10.775 Packaging and packing materials and containers for retail sale and for shipment.  
10.776 Indirect materials.

10.777 Imported directly.

#### Tariff Preference Level

10.778 Filing of claim for tariff preference level.

10.779 Goods eligible for tariff preference claims.

10.780 Transshipment of nonoriginating fabric or apparel goods.

10.781 Effect of noncompliance; failure to provide documentation regarding transshipment of nonoriginating fabric or apparel goods.

#### Origin Verifications and Determinations

10.784 Verification and justification of claim for preferential treatment.

10.785 Special rule for verifications in Morocco of U.S. imports of textile and apparel products.

10.786 Issuance of negative origin determinations.

#### Penalties

10.787 Violations relating to the MFTA.

#### Goods Returned After Repair or Alteration

10.788 Goods re-entered after repair or alteration in Morocco.

### Subpart M—United States-Morocco Free Trade Agreement

#### General Provisions

##### § 10.761 Scope.

This subpart implements the duty preference and related customs provisions applicable to imported goods under the United States-Morocco Free Trade Agreement (the MFTA) signed on June 15, 2004, and under the United States-Morocco Free Trade Agreement Implementation Act (the Act; 118 Stat. 1103). 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 MFTA and the Act are contained in Parts 162 and 163 of this chapter.

##### § 10.762 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 of origin*. “Claim of origin” means a claim that a good is an originating good;

(b) *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 MFTA to an originating good;

(c) *Customs Valuation Agreement*. “Customs Valuation Agreement” means the *Agreement on Implementation of*

*Article VII of the General Agreement on Tariffs and Trade 1994*, which is part of the WTO Agreement;

(d) *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 like, directly competitive, or substitutable goods of the Party or in respect of goods from which the imported good has been manufactured or produced in whole or in part;

(2) Antidumping or countervailing duty; and

(3) Fee or other charge in connection with importation commensurate with the cost of services rendered;

(e) *Days*. “Days” means calendar days.

(f) *Enterprise*. “Enterprise” means any entity constituted or organized under applicable law, whether or not for profit, and whether privately-owned or governmentally-owned, including any corporation, trust, partnership, sole proprietorship, joint venture, or other association;

(g) *Foreign material*. “Foreign material” means a material other than a material produced in the territory of one or both of the Parties;

(h) *GATT 1994*. “GATT 1994” means the General Agreement on Tariffs and Trade 1994, which is part of the WTO Agreement;

(i) *Good*. “Good” means any merchandise, product, article, or material;

(j) *Harmonized System*. “Harmonized System (HS)” means the *Harmonized Commodity Description and Coding System*, including its General Rules of Interpretation, Section Notes, and Chapter Notes, as adopted and implemented by the Parties in their respective tariff laws;

(k) *Heading*. “Heading” means the first four digits in the tariff classification number under the Harmonized System;

(l) *HTSUS*. “HTSUS” means the *Harmonized Tariff Schedule of the United States* as promulgated by the U.S. International Trade Commission;

(m) *Originating*. “Originating” means a good qualifying under the rules of origin set forth in General Note 27, HTSUS, and MFTA Chapter Four (Textiles and apparel) or Chapter Five (Rules of Origin);

(n) *Party*. “Party” means the United States or the Kingdom of Morocco;

(o) *Person*. “Person” means a natural person or an enterprise;

(p) *Preferential tariff treatment*. “Preferential tariff treatment” means the

duty rate applicable under the MFTA to an originating good;

(q) *Subheading*. “Subheading” means the first six digits in the tariff classification number under the Harmonized System;

(r) *Textile or apparel good*. “Textile or apparel good” means a good listed in the Annex to the Agreement on Textiles and Clothing (commonly referred to as ATC), which is part of the WTO Agreement;

(s) *Territory*. “Territory” means:

(1) With respect to Morocco, the land, maritime and air space under its sovereignty, and the exclusive economic zone and the continental shelf within which it exercises sovereign rights and jurisdiction in accordance with international law and its domestic law; and

(2) With respect to the United States,

(i) The customs territory of the United States, which includes the 50 states, the District of Columbia, and Puerto Rico,

(ii) The foreign trade zones located in the United States and Puerto Rico, and

(iii) Any areas beyond the territorial seas of the United States within which, in accordance with international law and its domestic law, the United States may exercise rights with respect to the seabed and subsoil and their natural resources;

(t) *WTO Agreement*. “WTO Agreement” means the *Marrakesh Agreement Establishing the World Trade Organization* of April 15, 1994.

#### Import Requirements

##### § 10.763 Filing of claim for preferential tariff treatment upon importation.

An importer may make a claim for MFTA preferential tariff treatment for an originating good by including on the entry summary, or equivalent documentation, the symbol “MA” as a prefix to the subheading of the HTSUS under which each qualifying good is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system.

##### § 10.764 Declaration.

(a) *Contents*. An importer who claims preferential tariff treatment for a good under the MFTA must submit to CBP, at the request of the port director, a declaration setting forth all pertinent information concerning the growth, production, or manufacture of the good. A declaration submitted to CBP under this paragraph:

(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 legal name, address, telephone, and e-mail address (if any) of the importer of record of the good;

(ii) The legal name, address, telephone, and e-mail address (if any) of the responsible official or authorized agent of the importer signing the declaration (if different from the information required by paragraph (a)(2)(i) of this section);

(iii) The legal name, address, telephone, and e-mail address (if any) of the exporter of the good (if different from the producer);

(iv) The legal name, address, telephone, and e-mail address (if any) of the producer of the good (if known);

(v) A description of the good, which must be sufficiently detailed to relate it to the invoice and HS nomenclature, including quantity, numbers, invoice numbers, and bills of lading;

(vi) A description of the operations performed in the growth, production, or manufacture of the good in the territory of one or both of the Parties and, where applicable, identification of the direct costs of processing operations;

(vii) A description of any materials used in the growth, production, or manufacture of the good that are wholly the growth, product, or manufacture of one or both of the Parties, and a statement as to the value of such materials;

(viii) A description of the operations performed on, and a statement as to the origin and value of, any materials used in the article that are claimed to have been sufficiently processed in the territory of one or both of the Parties so as to be materials produced in one or both of the Parties, or are claimed to have undergone an applicable change in tariff classification specified in General Note 27(h), HTSUS; and

(ix) A description of the origin and value of any foreign materials used in the good that have not been substantially transformed in the territory of one or both of the Parties, or have not undergone an applicable change in tariff classification specified in General Note 27(h), HTSUS;

(3) Must include a statement, in substantially the following form:

"I certify that:

The information on this document is true and accurate and I assume the responsibility for proving such representations. I understand that I am liable for any false statements or material omissions made on or in connection with this document;

I agree to maintain and present upon request, documentation necessary to support these representations;

The goods comply with all the requirements for preferential tariff treatment

specified for those goods in the United States-Morocco Free Trade Agreement; and

This document consists of \_\_\_ pages, including all attachments."

(b) *Responsible official or agent.* The declaration must be signed and dated by a responsible official of the importer or by the importer's authorized agent having knowledge of the relevant facts.

(c) *Language.* The declaration must be completed in the English language.

(d) *Applicability of declaration.* The declaration may be applicable to:

(1) A single importation of a good into the United States, including a single shipment that results in the filing of one or more entries and a series of shipments that results in the filing of one entry; or

(2) Multiple importations of identical goods into the United States that occur within a specified blanket period, not exceeding 12 months, set out in the declaration. For purposes of this paragraph, "identical goods" means goods that are the same in all respects relevant to the production that qualifies the goods for preferential tariff treatment.

#### § 10.765 Importer obligations.

(a) *General.* An importer who makes a claim for preferential tariff treatment under § 10.763 of this subpart:

(1) Will be deemed to have certified that the good is eligible for preferential tariff treatment under the MFTA;

(2) Is responsible for the truthfulness of the information and data contained in the declaration provided for in § 10.764 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. CBP will allow for the direct submission by the exporter or producer of business confidential or other sensitive information, including cost and sourcing information.

(b) *Information provided by exporter or producer.* The fact that the importer has made a claim for preferential tariff treatment or prepared a declaration based on information provided by an exporter or producer will not relieve the importer of the responsibility referred to in paragraph (a) of this section.

#### § 10.766 Declaration not required.

(a) *General.* Except as otherwise provided in paragraph (b) of this section, an importer will not be required to submit a declaration under § 10.764 of this subpart for:

(1) A non-commercial importation of a good; or

(2) A commercial importation for which the value of the originating goods does not exceed U.S. \$2,500.

(b) *Exception.* If the port director determines that an importation described in paragraph (a) of this section may reasonably be considered to have been carried out or planned for the purpose of evading compliance with the rules and procedures governing claims for preference under the MFTA, the port director will notify the importer that for that importation the importer must submit to CBP a declaration. The importer must submit such a declaration within 30 days from the date of the notice. Failure to timely submit the declaration will result in denial of the claim for preferential tariff treatment.

#### § 10.767 Maintenance of records.

(a) *General.* An importer claiming preferential tariff treatment for a good under § 10.763 of this subpart must maintain, for five years after the date of the claim for preferential tariff treatment, all records and documents necessary for the preparation of the declaration.

(b) *Applicability of other recordkeeping requirements.* The records and documents referred to in paragraph (a) of this section are in addition to any other records required to be made, kept, and made available to CBP under Part 163 of this chapter.

(c) *Method of maintenance.* The records and documents referred to in paragraph (a) of this section must be maintained by importers as provided in § 163.5 of this chapter.

#### § 10.768 Effect of noncompliance; failure to provide documentation regarding transshipment.

(a) *General.* If the importer fails to comply with any requirement under this subpart, including submission of a complete declaration under § 10.764 of this subpart, when requested, the port director may deny preferential tariff treatment to the imported good.

(b) *Failure to provide documentation regarding transshipment.* Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential treatment to a good if the good is shipped through or transshipped in the territory of a country other than a Party, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the good was imported directly from the territory of a Party into the territory of the other Party (see § 10.777 of this subpart).

## Rules of Origin

### § 10.769 Definitions.

For purposes of §§ 10.769 through 10.777:

(a) *Exporter*. “Exporter” means a person who exports goods from the territory of a Party;

(b) *Generally Accepted Accounting Principles*. “Generally Accepted Accounting Principles” means the recognized consensus or substantial authoritative support in the territory of a Party, with respect to the recording of revenues, expenses, costs, assets, and liabilities, the disclosure of information, and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices, and procedures;

(c) *Good*. “Good” means any merchandise, product, article, or material;

(d) *Goods wholly the growth, product, or manufacture of one or both of the Parties*. “Goods wholly the growth, product, or manufacture of one or both of the Parties” means:

(1) Mineral goods extracted in the territory of one or both of the Parties;

(2) Vegetable goods, as such goods are defined in the HTSUS, harvested in the territory of one or both of the Parties;

(3) Live animals born and raised in the territory of one or both of the Parties;

(4) Goods obtained from live animals raised in the territory of one or both of the Parties;

(5) Goods obtained from hunting, trapping, or fishing in the territory of one or both of the parties;

(6) Goods (fish, shellfish, and other marine life) taken from the sea by vessels registered or recorded with a Party and flying its flag;

(7) Goods produced from goods referred to in paragraph (d)(5) on board factory ships registered or recorded with that Party and flying its flag;

(8) Goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that a Party has rights to exploit such seabed;

(9) Goods taken from outer space, provided they are obtained by a Party or a person of a Party and not processed in the territory of a non-Party;

(10) Waste and scrap derived from:

(i) Production or manufacture in the territory of one or both of the Parties, or

(ii) Used goods collected in the territory of one or both of the Parties, provided such goods are fit only for the recovery of raw materials;

(11) Recovered goods derived in the territory of a Party from used goods, and

utilized in the territory of that Party in the production of remanufactured goods; and

(12) Goods produced in the territory of one or both of the Parties exclusively from goods referred to in paragraphs (d)(1) through (d)(10) of this section, or from their derivatives, at any stage of production;

(e) *Importer*. Importer means a person who imports goods into the territory of a Party;

(f) *Indirect material*. “Indirect material” means a good used in the growth, production, manufacture, testing, or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the growth, production, or manufacture of a good, including:

(1) Fuel and energy;

(2) Tools, dies, and molds;

(3) Spare parts and materials used in the maintenance of equipment and buildings;

(4) Lubricants, greases, compounding materials, and other materials used in the growth, production, or manufacture of a good or used to operate equipment and buildings;

(5) Gloves, glasses, footwear, clothing, safety equipment, and supplies;

(6) Equipment, devices, and supplies used for testing or inspecting the good;

(7) Catalysts and solvents; and

(8) Any other goods that are not incorporated into the good but the use of which in the growth, production, or manufacture of the good can reasonably be demonstrated to be a part of that growth, production, or manufacture;

(g) *Material*. “Material” means a good, including a part or ingredient, that is used in the growth, production, or manufacture of another good that is a new or different article of commerce that has been grown, produced, or manufactured in one or both of the Parties;

(h) *Material produced in the territory of one or both of the Parties*. “Material produced in the territory of one or both of the Parties” means a good that is either wholly the growth, product, or manufacture of one or both of the Parties, or a new or different article of commerce that has been grown, produced, or manufactured in the territory of one or both of the Parties;

(i) *New or different article of commerce*. The term “new or different article of commerce” means, except as provided in § 10.770(c) of this subpart, a good that:

(1) Has been substantially transformed from a good or material that is not wholly the growth, product, of

manufacture of one or both of the Parties; and

(2) Has a new name, character, or use distinct from the good or material from which it was transformed;

(j) *Non-originating material*. “Non-originating material” means a material that does not qualify as originating under this subpart or General Note 27, HTSUS;

(k) *Packing materials and containers for shipment*. “Packing materials and containers for shipment” means the goods used to protect a good during its transportation to the United States, and does not include the packaging materials and containers in which a good is packaged for retail sale;

(l) *Recovered goods*. “Recovered goods” means materials in the form of individual parts that result from:

(1) The complete disassembly of used goods into individual parts; and

(2) The cleaning, inspecting, testing, or other processing of those parts as necessary for improvement to sound working condition;

(m) *Remanufactured good*.

“Remanufactured good” means an industrial good that is assembled in the territory of a Party and that:

(1) Is entirely or partially comprised of recovered goods;

(2) Has a similar life expectancy to, and meets the similar performance standards as, a like good that is new; and

(3) Enjoys the factory warranty similar to that of a like good that is new;

(n) *Simple combining or packaging operations*. “Simple combining or packaging operations” means operations such as adding batteries to electronic devices, fitting together a small number of components by bolting, gluing, or soldering, or packing or repacking components together;

(o) *Substantially transformed*.

“Substantially transformed” means, with respect to a good or material, changed as the result of a manufacturing or processing operation so that the good loses its separate identity in the manufacturing or processing operation and:

(1) The good or material is converted from a good that has multiple uses into a good or material that has limited uses;

(2) The physical properties of the good or material are changed to a significant extent; or

(3) The operation undergone by the good or material is complex by reason of the number of processes and materials involved and the time and level of skill required to perform those processes.



**§ 10.770 Originating goods.**

(a) *General.* A good will be considered an originating good under the MFTA when imported directly from the territory of a Party into the territory of the other Party only if:

(1) The good is wholly the growth, product, or manufacture of one or both of the Parties;

(2) The good is a new or different article of commerce that has been grown, produced, or manufactured in the territory of one or both of the Parties, is provided for in a heading or subheading of the HTSUS that is not covered by the product-specific rules set forth in General Note 27(h), HTSUS, and meets the value-content requirement specified in paragraph (b) of this section; or

(3) The good is provided for in a heading or subheading of the HTSUS covered by the product-specific rules set forth in General Note 27(h), HTSUS, and:

(i)(A) Each of the non-originating materials used in the production of the good undergoes an applicable change in tariff classification specified in General Note 27(h), HTSUS, as a result of production occurring entirely in the territory of one or both of the Parties; or

(B) The good otherwise satisfies the requirements specified in General Note 27(h), HTSUS; and

(ii) The good meets any other requirements specified in General Note 27, HTSUS.

(b) *Value-content requirement.* A good described in paragraph (a)(2) of this section will be considered an originating good under the MFTA only if the sum of the value of materials produced in one or both of the Parties, plus the direct costs of processing operations (see § 10.774 of this subpart) performed in one or both of the Parties, is not less than 35 percent of the appraised value of the good at the time the good is entered into the territory of the United States.

(c) *Combining, packaging, and diluting operations.* For purposes of this subpart, a good will not be considered a new or different article of commerce by virtue of having undergone simple combining or packaging operations, or mere dilution with water or another substance that does not materially alter the characteristics of the good. The principles and examples set forth in § 10.195(a)(2) of this part will apply equally for purposes of this paragraph.

**§ 10.771 Textile or apparel goods.**

(a) *De minimis.* Except as provided in paragraph (a)(1) of this section, a textile or apparel good that is not an originating good under the MFTA

because certain fibers or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in General Note 27(h), HTSUS, will be considered to be an originating good if the total weight of all such fibers is not more than seven percent of the total weight of that component.

(1) *Exception.* A textile or apparel good containing elastomeric yarns in the component of the good that determines the tariff classification of the good will be considered to be an originating good only if such yarns are wholly formed in the territory of a Party.

(2) *Yarn, fabric, or group of fibers.* For purposes of paragraph (a) of this section, in the case of a textile or apparel good that is a yarn, fabric, or group of fibers, the term “component of the good that determines the tariff classification of the good” means all of the fibers in the yarn, fabric, or group of fibers.

(b) *Textile or apparel goods put up in sets.* Notwithstanding the specific rules specified in General Note 27(h), HTSUS, textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3, HTSUS, will not be considered to be originating goods under the MFTA unless each of the goods in the set is an originating good or the total value of the non-originating goods in the set does not exceed ten percent of the appraised value of the set.

**§ 10.772 Accumulation.**

(a) An originating good or material produced in the territory of one or both of the Parties that is incorporated into a good in the territory of the other Party will be considered to originate in the territory of the other Party.

(b) A good that is grown, produced, or manufactured in the territory of one or both of the Parties by one or more producers is an originating good if the good satisfies the requirements of § 10.770 of this subpart and all other applicable requirements of General Note 27, HTSUS.

**§ 10.773 Value of materials.**

(a) *General.* For purposes of § 10.770(b) of this subpart and, except as provided in paragraph (b) of this section, the value of a material produced in the territory of one or both of the Parties includes the following:

(1) The price actually paid or payable for the material by the producer of the good;

(2) The freight, insurance, packing and all other costs incurred in transporting the material to the

producer's plant, if such costs are not included in the price referred to in paragraph (a)(1) of this section;

(3) The cost of waste or spoilage resulting from the use of the material in the growth, production, or manufacture of the good, less the value of recoverable scrap; and

(4) Taxes or customs duties imposed on the material by one or both of the Parties, if the taxes or customs duties are not remitted upon exportation from the territory of a Party.

(b) *Exception.* If the relationship between the producer of a good and the seller of a material influenced the price actually paid or payable for the material, or if there is no price actually paid or payable by the producer for the material, the value of the material produced in the territory of one or both of the Parties, includes the following:

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

(2) A reasonable amount for profit; and

(3) The freight, insurance, packing, and all other costs incurred in transporting the material to the producer's plant.

**§ 10.774 Direct costs of processing operations.**

(a) *Items included.* For purposes of § 10.770(b) of this subpart, the words “direct costs of processing operations”, with respect to a good, mean those costs either directly incurred in, or that can be reasonably allocated to, the growth, production, or manufacture of the good in the territory of one or both of the Parties. Such costs include, to the extent they are includable in the appraised value of the good when imported into a Party, the following:

(1) All actual labor costs involved in the growth, production, or manufacture of the specific good, including fringe benefits, on-the-job training, and the costs of engineering, supervisory, quality control, and similar personnel;

(2) Tools, dies, molds, and other indirect materials, and depreciation on machinery and equipment that are allocable to the specific good;

(3) Research, development, design, engineering, and blueprint costs, to the extent that they are allocable to the specific good;

(4) Costs of inspecting and testing the specific good; and

(5) Costs of packaging the specific good for export to the territory of the other Party.

(b) *Items not included.* For purposes of § 10.770(b) of this subpart, the words “direct costs of processing operations”

do not include items that are not directly attributable to the good or are not costs of growth, production, or manufacture of the good. These include, but are not limited to:

(1) Profit; and

(2) General expenses of doing business that are either not allocable to the good or are not related to the growth, production, or manufacture of the good, such as administrative salaries, casualty and liability insurance, advertising, and salesmen's salaries, commissions, or expenses.

**§ 10.775 Packaging and packing materials and containers for retail sale and for shipment.**

Packaging materials and containers in which a good is packaged for retail sale and packing materials and containers for shipment are to be disregarded in determining whether a good qualifies as an originating good under § 10.770 of this subpart and General Note 27, HTSUS, except to the extent that the value of such packaging and packing materials and containers may be included in meeting the value-content requirement specified in § 10.770(b) of this subpart.

**§ 10.776 Indirect materials.**

Indirect materials are to be disregarded in determining whether a good qualifies as an originating good under § 10.770 of this subpart and General Note 27, HTSUS, except that the cost of such indirect materials may be included in meeting the value-content requirement specified in § 10.770(b) of this subpart.

**§ 10.777 Imported directly.**

(a) *General.* To qualify as an originating good under the MFTA, a good must be imported directly from the territory of a Party into the territory of the other Party. For purposes of this subpart, the words "imported directly" mean:

(1) Direct shipment from the territory of a Party into the territory of the other Party without passing through the territory of a non-Party; or

(2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be "imported directly" only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve the good in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of

dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a Party.

(b) *Documentary evidence.* An importer making a claim for preferential tariff treatment under the MFTA for an originating good may be required to demonstrate, to CBP's satisfaction, that the good was "imported directly" from the territory of a Party into the territory of the other Party, 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.

**Tariff Preference Level**

**§ 10.778 Filing of claim for tariff preference level.**

A fabric or apparel good described in § 10.779 of this subpart that does not qualify as an originating good under § 10.770 of this subpart may nevertheless be entitled to preferential tariff treatment under the MFTA under an applicable tariff preference level (TPL). To make a TPL claim, the importer must include on the entry summary, or equivalent documentation, the applicable subheading in Chapter 99 of the HTSUS (9912.99.20) immediately above the applicable subheading in Chapters 51 through 62 of the HTSUS under which each non-originating fabric or apparel good is classified.

**§ 10.779 Goods eligible for tariff preference claims.**

The following goods are eligible for a TPL claim filed under § 10.778 of this subpart:

(a) *Fabric goods.* Fabric goods provided for in Chapters 51, 52, 54, 55, 58, and 60 of the HTSUS that are wholly formed in Morocco, regardless of the origin of the fiber or yarn used to produce the goods, provided that they meet the applicable conditions for preferential tariff treatment under the MFTA, other than the condition that they are originating; and

(b) *Apparel goods.* Apparel goods provided for in Chapters 61 and 62 of the HTSUS that are cut or knit to shape, or both, and sewn or otherwise assembled in Morocco, regardless of the origin of the fabric or yarn used to

produce the goods, provided that they meet the applicable conditions for preferential tariff treatment under the MFTA, other than the condition that they are originating goods.

**§ 10.780 Transshipment of non-originating fabric or apparel goods.**

(a) *General.* To qualify for preferential tariff treatment under an applicable TPL, a good must be imported directly from the territory of a Party into the territory of the other Party. For purposes of this subpart, the words "imported directly" mean:

(1) Direct shipment from the territory of a Party into the territory of the other Party without passing through the territory of a non-Party; or

(2) If the shipment passed through the territory of a non-Party, the good, upon arrival in the territory of a Party, will be considered to be "imported directly" only if the good did not undergo production, manufacturing, or any other operation outside the territories of the Parties, other than unloading, reloading, or any other operation necessary to preserve it in good condition or to transport the good to the territory of a Party. Operations that may be performed outside the territories of the Parties include inspection, removal of dust that accumulates during shipment, ventilation, spreading out or drying, chilling, replacing salt, sulfur dioxide, or other aqueous solutions, replacing damaged packing materials and containers, and removal of units of the good that are spoiled or damaged and present a danger to the remaining units of the good, or to transport the good to the territory of a Party.

(b) *Documentary evidence.* An importer making a claim for preferential tariff treatment under an applicable TPL may be required to demonstrate, to CBP's satisfaction, that the good was "imported directly" from the territory of a Party into the territory of the other Party, 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.

**§ 10.781 Effect of noncompliance; failure to provide documentation regarding transshipment of non-originating fabric or apparel goods.**

(a) *Effect of noncompliance.* If an importer of a good for which a TPL claim is made fails to comply with any applicable requirement under this

subpart, the port director may deny preferential tariff treatment to the imported good.

(b) *Failure to provide documentation regarding transshipment.* Where the requirements for preferential tariff treatment set forth elsewhere in this subpart are met, the port director nevertheless may deny preferential tariff treatment to a good for which a TPL claim is made if the good is shipped through or transshipped in a country other than a Party, and the importer of the good does not provide, at the request of the port director, evidence demonstrating to the satisfaction of the port director that the requirements set forth in § 10.780 of this subpart were met.

### Origin Verifications and Determinations

#### § 10.784 Verification and justification of claim for preferential treatment.

(a) *Verification.* A claim for preferential treatment made under § 10.763 of this subpart, including any declaration or other information submitted to CBP in support of the claim, will be subject to such verification as the port director deems necessary. In the event that the port director is provided with insufficient information to verify or substantiate the claim, the port director may deny the claim for preferential treatment.

(b) *Applicable accounting principles.* When conducting a verification of origin to which Generally Accepted Accounting Principles may be relevant, CBP will apply and accept the Generally Accepted Accounting Principles applicable in the country of production.

#### § 10.785 Special rule for verifications in Morocco 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 Morocco 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, or makes a negative determination, 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 United States.* 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 Moroccan exporter or producer is engaging in unlawful activity relating to trade in textile and apparel goods, CBP may request that the government of Morocco 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 6.5.5 of the MFTA, that indicates circumvention of applicable laws, regulations or procedures regarding trade in textile and apparel goods. 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 Moroccan 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, or makes a negative determination, 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 U.S. officials to Moroccan authorities.* U.S. officials may undertake or assist in a verification under this section by conducting visits in Morocco, along with the competent authorities of Morocco, to the premises of an exporter, producer or any other enterprise involved in the movement of textile or apparel goods from Morocco 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 Morocco consistent with the laws, regulations, and procedures of Morocco, will be treated in accordance with Article 6.6 of the MFTA.

(e) *Notification to Morocco; continuation of appropriate action.* Prior to commencing appropriate action

under paragraph (a) or (b) of this section, CBP will notify the government of Morocco. 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 those paragraphs.

#### § 10.786 Issuance of negative origin determinations.

If, as a result of an origin verification initiated under this subpart, CBP determines that a claim for preferential tariff treatment made under § 10.763 of this subpart should be denied, 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; and

(c) With specific reference to the rules applicable to originating goods as set forth in General Note 27, HTSUS, and in §§ 10.769 through 10.777 of this subpart, the legal basis for the determination.

### Penalties

#### § 10.787 Violations relating to the MFTA.

All criminal, civil, or administrative penalties which may be imposed on U.S. importers for violations of the customs and related laws and regulations will also apply to U.S. importers for violations of the laws and regulations relating to the MFTA.

### Goods Returned After Repair or Alteration

#### § 10.788 Goods re-entered after repair or alteration in Morocco.

(a) *General.* This section sets forth the rules that apply for purposes of obtaining duty-free treatment on goods returned after repair or alteration in Morocco as provided for in subheadings 9802.00.40 and 9802.00.50, HTSUS. Goods returned after having been repaired or altered in Morocco, whether or not pursuant to a warranty, are eligible for duty-free treatment, provided that the requirements of this section are met. For purposes of this section, “repairs or alterations” means restoration, addition, renovation, re-dyeing, cleaning, re-sterilizing, or other treatment which does not destroy the essential characteristics of, or create a new or commercially different good

from, the good exported from the United States.

(b) Goods not eligible for treatment. The duty-free treatment referred to in paragraph (a) of this section will not apply to goods which, in their condition as exported from the United States to Morocco, are incomplete for their intended use and for which the processing operation performed in Morocco constitutes an operation that is performed as a matter of course in the preparation or manufacture of finished goods.

(c) Documentation. The provisions of § 10.8(a), (b), and (c) 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 Morocco after having been exported for repairs or alterations and which are claimed to be duty free.

**PART 162—INSPECTION, SEARCH, AND SEIZURE**

■ 4. The authority citation for Part 162 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1592, 1593a, 1624.  
\* \* \* \* \*

■ 5. Section 162.0 is amended by revising the last sentence to read as follows:

**§ 162.0 Scope.**  
\* \* \* Additional provisions concerning records maintenance and examination applicable to U.S. importers, exporters and producers under the U.S.-Chile Free Trade Agreement, the U.S.-Singapore Free Trade Agreement, and the U.S.-Morocco Free Trade Agreement are contained in Part 10, Subparts H, I, and M of this chapter, respectively.

**PART 163—RECORDKEEPING**

■ 6. The authority citation for Part 163 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 66, 1484, 1508, 1509, 1510, 1624.  
\* \* \* \* \*

■ 7. Section 163.1(a)(2) is amended by re-designating paragraph (a)(2)(ix) as (a)(2)(x) and adding a new paragraph (ix) to read as follows:

**§ 163.1 Definitions.**  
\* \* \*  
(a) Records—  
\* \* \*  
(2) Activities \* \* \*  
(ix) The maintenance of any documentation that the importer may have in support of a claim for

preferential tariff treatment under the United States-Morocco Free Trade Agreement (MFTA), including a MFTA importer's declaration.  
\* \* \* \* \*

■ 8. The Appendix to Part 163 is amended by adding a new listing under section IV in numerical order to read as follows:

**Appendix to Part 163—Interim (a)(1)(A) List**

\* \* \* \* \*  
IV. \* \* \*  
§ 10.765 MFTA records that the importer may have in support of a MFTA claim for preferential tariff treatment, including an importer's declaration.  
\* \* \* \* \*

**PART 178—APPROVAL OF INFORMATION COLLECTION REQUIREMENTS**

■ 9. The authority citation for Part 178 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1624; 44 U.S.C. 3501 *et seq.*

■ 10. Section 178.2 is amended by adding new listings “§§ 10.763 and 10.764” to the table in numerical order to read as follows:

**§ 178.2 Listing of OMB control numbers.**

19 CFR Section	Description	OMB control No.
§§ 10.763 and 10.764	Claim for preferential tariff treatment under the U.S.-Morocco Free Trade Agreement.	1651-0117

\* \* \* \* \*  
**Deborah J. Spero,**  
*Acting Commissioner, U.S. Customs and Border Protection.*  
**Timothy E. Skud,**  
*Deputy Assistant Secretary of the Treasury.*  
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**DEPARTMENT OF THE TREASURY**  
**Internal Revenue Service**  
**26 CFR Part 1**  
**[TD 9329]**  
**RIN 1545-BF16**  
**Guidance Necessary to Facilitate Business Electronic Filing and Burden Reduction; Correction**  
**AGENCY:** Internal Revenue Service (IRS), Treasury.  
**ACTION:** Final regulations; correction.  
**SUMMARY:** This document contains a correction to final regulations (TD 9329) that were published in the **Federal Register** on Thursday, June 14, 2007 (72 FR 32794) affecting taxpayers that file Federal income tax returns. They simplify, clarify, or eliminate reporting

burdens and also eliminate regulatory impediments to the electronic filing of certain statements that taxpayers are required to include on or with their Federal income tax returns.  
**DATES:** The correction is effective June 29, 2007.  
**FOR FURTHER INFORMATION CONTACT:** Grid Glycer, (202) 622-7930 (not a toll-free number).  
**SUPPLEMENTARY INFORMATION:**  
**Background**  
The final regulations that are the subject of the correction are under sections 302, 331, 332, 338, 351, 355, 368, 381, 382, 1081, 1221, 1502, 1563, and 6012 of the Internal Revenue Code.  
**Need for Correction**  
As published, final regulations (TD 9329) contain an error that may prove to