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February 3, 2012

The Honorable David V. Aguilar
Acting Commissioner
U.S. Customs and Border Protection
1300 Pennsylvania Ave. NW
Washington, DC 20229

**RE: FR Notice Volume 76, Number 233, Page 75893 (December 5, 2011)
– Agency Information Collection Activities: Dominican Republic-Central
America-United States Free Trade Agreement (CAFTA–DR)**

Acting Commissioner Aguilar:

On behalf of the American Apparel & Footwear Association (AAFA), I am writing to express strong concerns regarding U.S. Customs and Border Protection's (CBP) proposal to extend CBP's current paperwork and documentation requirements under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR). AAFA believes the current paperwork and documentation requirements for apparel and textile goods under CAFTA-DR represent the biggest single impediment to growing the apparel and textile trade under CAFTA-DR. The current paperwork and documentation requirements for apparel and textile goods under CAFTA-DR should not be extended.

AAFA is the national trade association representing apparel, footwear and other sewn products companies, and their suppliers, which compete in the global market. AAFA's members produce, market, and sell apparel and footwear in virtually every country around the world, including the CAFTA-DR region. The U.S. apparel and footwear industry employs over 4 million U.S. workers who support this global supply chain in research and development, design, manufacturing, compliance, sourcing, logistics, marketing, merchandising, and retail.

In CBP's *Federal Register* notice, CBP posits that the paperwork burden under CAFTA-DR is minimal, with CBP estimating that respondents submit, on average, documentation only four times a year requesting preferential duty treatment under CAFTA-DR. More importantly, CBP estimates each submission takes only 24 minutes to compile and complete.

Regrettably, such estimates are not accurate for the U.S. apparel industry. Many of AAFA's apparel members make dozens, if not hundreds, of preferential duty treatment submissions to CBP annually under CAFTA-DR. Further, most submissions take many hours, if not days, to complete.

The paperwork burden for each submission is tremendous for these importers, in most cases requiring in the range of 100 different, individual documents. And each of these submissions of around 100 different documents are not for each entry, but for each and every sku of every style contained in that entry.

Moreover, while AAFA applauds the tremendous strides CBP has made over the last decade in moving all documentation requirements to an electronic interface, the submissions for the apparel and textile trade under CAFTA-DR are not electronic. Instead, every submission must be made available in hard copy (paper) format. Further, this documentation must be maintained not only by the importer, but a

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second copy (again in paper format), must also be maintained by the supplier factory in the CAFTA-DR region.

To illustrate the immense burden CBP's current paperwork and documentation requirements for apparel and textile goods under CAFTA-DR represent for AAFA members, please find below an illustrative example of the process an importer must currently complete in order to be in compliance with CBP's requirements. These excessive requirements appears to be unique only to apparel and textile goods importers and not to other consumer goods:

CAFTA-DR Paperwork and Documentation Requirements for Apparel and Textile Goods

An Illustrative Example

1. Classify garment and determine eligibility requirements for specific HTS classification (rules are different for different HTS); Note: There is still no final acceptance by CBP that a compliance approach by the company to certify the article yields a solid classification.
2. Run bill of materials to identify all components and their sources;
3. Establish process to identify any changes in design or sources;
4. Identify which components affect CAFTA-DR eligibility;
5. Contact each source for verification of the qualification of the component material;
 - a. For fabric, this entails documentation certifying the origin facility of the yarn(s), the fabric, and the fabric finishing.
6. Track each roll of fabric as it is purchased and ships from the fabric mill to the cutting facility;
7. Track each cut as it moves to sewing and finishing;
8. Document each employee in cutting, sewing, finishing and packing who participates in the garment operation by daily timecard and by individual cut/roll tracking;
9. Be able to produce entire string of documents translated into English within 10 days for CBP verification upon request;
10. Maintain all records for 5 years from date of import; and
11. Repeat for every sku per style

Average number of documents per sku per style: 100

This process is derived from the guidance CBP has provided to the trade on submissions of apparel and textile goods under CAFTA-DR. Appendix A contains that guidance for your review.

Regrettably, even this painstaking, time-consuming, and burdensome process does not provide any guarantees that an importer's shipments won't be held or subject to CF-28s or audits. To the contrary, apparel and textile goods shipments under CAFTA-DR are subject to a significantly higher risk of CF-28s and other inspections than apparel and textile good shipments from any other region of the world.

The documentation and paperwork burden required for these verifications can only be described as onerous. Appendix B contains pictures from two different angles of an example of the paperwork required in response to one such CBP verification. Please note that these pictures don't even include the timecards or tickets that are also required for these verifications. This volume of paperwork is the norm, and not the exception.

Moreover, each CBP port addresses the CF-28 response differently and passing review in one port does not mean the same shipment with the same documentation would pass verification in another CBP port. Indeed, some ports contradict the others.

And this documentation morass has very real, and very devastating, consequences for apparel and textile goods importers. CBP considers an error in the documentation a case of transshipment. As such, any documentation error in the documentation for apparel and textile goods shipments under CAFTA-DR is subject to stronger penalties than other entry errors, up to and including banning an importer from participation in the FTA program.

This whole situation stems from a process that is overly focused on documentation rather than facts behind a shipment, resulting in lost trade, increased burdens and unproductive investment by both CBP and the industry.

Core to this issue is that CBP manages its enforcement of this trade on a shipment by shipment basis rather than through account management. The absence of the account perspective means that extensive document is required for each shipment rather than the trade pattern, posing burdens on the U.S. exporter, the producer, the U.S. importer, the regulatory agencies, and the ports.

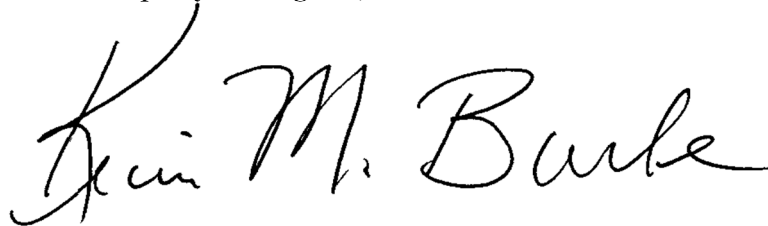
This is particularly troubling given that many apparel companies, particularly those operating in the CAFTA-DR region, rely upon a supply chain that has consistent suppliers and a predictive pattern of trade. If this supply chain cycle was governed by an account structure, CBP and the trade could harmonize those predictive abilities to encourage U.S. exports and not burden the trade.

Moreover, existing paperwork requirements are not well-suited to address fraud issues, which the stated purpose of these burdensome documentation requirements. In fact, one of the most well-known fraud cases associated with CAFTA-DR deals with a presumed supplier company. Yet the enforcement tools that CBP uses, as expressed through CBP's documentation requirements, are focused on a different part of the supply chain entirely – the importer. This focus often gives CBP only an indirect ability to address the real problems with fraud while saddling potential enforcement partners of CBP – the informed importer exercising due care – with extra and unnecessary costs. In the case noted above, a further adverse result was a misplaced effort to eliminate the use of blanket affidavits, even though such documentary tools was one way to reduce costs.

In conclusion, we urge CBP to not extend the current paperwork and documentation requirements for apparel and textile goods under CAFTA-DR. Instead, we urge CBP to work constructively with the trade to develop new documentation and paperwork requirements that meet CBP's needs for enforcement while not unnecessarily burdening the trade.

Thank you for your time and consideration in this matter. Please contact Nate Herman of my staff at 703-797-9062 or nherman@wewear.org if you have any questions or would like additional information.

Please accept my best regards,

A handwritten signature in black ink that reads "Kevin M. Burke". The signature is written in a cursive, flowing style.

Kevin M. Burke
President & CEO

Appendices

October 10, 2007

CMP-1 OT:TPP:TE NM

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
OFFICE OF FIELD OPERATIONS

FROM: Executive Director, Trade Policy and Programs
Office of International Trade

SUBJECT: TBT-07-019 Documents Used to Verify Free Trade
Agreement and Legislated Trade Program Claims for
Textiles and Wearing Apparel

BACKGROUND:

Customs and Border Protection (CBP) is tasked with the enforcement of Free Trade Agreements (FTAs) and legislated trade programs that govern the importation of textiles and wearing apparel into the United States. Upon the request of CBP, importers who make trade preference claims for textiles and wearing apparel must provide sufficient records to substantiate their claims that goods meet the preference rule of origin for a country that has a FTA or legislated trade program.

Whether an agreement requires the use of yarn or fabric originating in the United States or in the region or country of the agreement, or U.S. cut or knit-to-shape components, determines the types of records importers must submit to substantiate a claim. When requested by CBP, the primary documents importers must submit to confirm each raw material source are indicated below.

The following requirements hold whether U.S. materials or regional materials are used:

1. An affidavit completed by a party having direct knowledge of the yarn or fabric formation is necessary to substantiate the origin claim.
 - a. Such an affidavit (or declaration) should identify the factory that produced the yarn or fabric, giving the full name and address.
 - The address of the actual production facility, not a corporate office or post office box number, is required.
 - Someone at that location must make the declaration.
 - The contact person's name, phone number, and fax number must be legibly printed on the affidavit.

- b. Affidavits claiming the yarn was produced in the United States will not be accepted if the party that produced the fabric in question did not also produce the yarn. The yarn producer must complete the affidavit.
 - c. Affidavits will not be accepted from converters or dyers who are not responsible for the actual production of the yarn or fabric.
2. The affidavit should have a description of the goods, such as fiber content, yarn count and fabric type, as well as some identifying characteristics, such as an invoice or order number.
 - a. If the importer purchased the yarn or fabric, he should provide a commercial invoice for the material.
 - b. If the fabric is a U.S. product, the importer should provide the bill of lading showing its movement from the United States to the beneficiary country.
3. A blanket certificate of origin should contain a description of the product, and the fabric description must not vary among the orders covered by the blanket certificate reference or contract number.

Documents to Support Claims Involving Agreements/Groupings Requiring U.S. Yarn or Fabric

1. Records demonstrating that the imported merchandise was produced using U.S. formed yarn or fabric, or U.S. cut or knit-to-shape components. Such records include certificates of origin, purchase orders, invoices, delivery notices, and, in some cases, records of yarn, fabric, or panel formation from the actual producer of a component.
2. Transportation and export records (e.g., bills of lading).
3. Entry documents showing movement of the inputs into the regional country of final production.

Documents to Support Claims Involving Agreements/Groupings Requiring Regional Yarn or Fabric

1. Records demonstrating that a party to the transaction sourced regionally formed yarn, fabric, or cut or knit-to-shape components clearly dedicated to the final imported merchandise. Such records include purchase orders, invoices, delivery notices, etc. These documents should demonstrate a direct correlation of the materials or components to the finished good by way of style numbers, fabric type and construction, or other means.
2. Transportation and export records (e.g., bills of lading) from the regional country of origin of the yarn or fabric to the regional country of final production.
3. Entry documents showing movement of the inputs into the regional country of final production.
4. Documents showing movement and delivery of inputs within the regional country of final production.

ACTION:

When making claims for preferential tariff treatment of textiles and wearing apparel under a FTA or legislated trade program, upon the request of CBP, importers must provide documents as indicated above. These documents must demonstrate that the goods qualify for the preferential treatment. If documents cannot be presented to substantiate the claim, the preference claim will be denied and all prior claims may be reviewed for sufficiency.

Please pass this memorandum to Port Directors, Assistant Port Directors, Import Specialists, CBP Officers, Entry Specialists, Brokers, Importers and other interested parties.

INFORMATION:

For additional information, please contact Ms. Nancy Mondich at 202-863-6524, Ms. Jacqueline Sprungle at 202-863-6517, Ms. Susan Thomas at 202-863-6516, or Mr. Robert Abels at 202-863-6503.

/s/

Brenda B. Smith



**U.S. Customs and
Border Protection**

MAR 31 2011

ENT-14 OT:TPP:TAPP:TO NM

MEMORANDUM FOR: Directors, Field Operations

FROM: Executive Director, Trade Policy and Programs
Office of International Trade

SUBJECT: TBT-11-004 Additional Documents Used to Verify Free Trade Agreement and Legislated Trade Program Claims for Textiles and Wearing Apparel

REFERENCE: TBT-07-019 Documents Used to Verify Free Trade Agreement and Legislated Trade Program Claims for Textiles and Wearing Apparel

BACKGROUND

As specified in TBT-07-019, referenced above, in the enforcement of Free Trade Agreements (FTAs) and legislated trade programs that govern the importation of textiles and wearing apparel into the United States, U.S. Customs and Border Protection (CBP) may request importers who make trade preference claims for textiles and wearing apparel to provide documentation to substantiate their claims that goods meet the preference rule of origin for the given trade preference program. TBT-07-019 outlines the information that is needed in the documentation in order to support a claim.

While the TBT makes reference to affidavits, CBP will accept other types of documentation that contain all of the elements described in TBT-07-019. An example of such a document is a Certificate of Origin prepared for a specific product by the Government of Guatemala's National Commission of Quota Administration for Textiles and Wearing Apparel (Comision Nacional de Administracion de Cuotas Textiles y Prendas de Vestir de Guatemala).

To summarize the essential points of TBT-07-019, the elements required in order for the documentation to support a claim for preferential tariff treatment based on a trade preference program include:

- 1) A statement from a person with direct knowledge of the production of the raw material. If a company has factories in several locations and has designated a centralized point of contact for providing this information, CBP will accept the statement from the authorized provider.
- 2) The address of the actual production facility where the raw material was produced. This cannot be a post office box. While the person authorized to sign the affidavit may work from the corporate office or another office facility, the affidavit must show the address where the materials were produced.
- 3) The name of the contact person legibly printed, and at least one of the following: phone number, fax number, or email address.
- 4) A description of the goods including fiber content, yarn count, and fabric type, as appropriate, and identifying information such as an invoice or order number.

A more extensive list and description of the documents that CBP may request in the verification of claims for preferential tariff treatment is included in TBT-07-019.

ACTION

Import specialists may accept as valid support of claims for preferential tariff treatment documents other than affidavits supplied by the producers of materials, if such alternate documents demonstrate that the products qualify for preferential treatment and include all of the data elements specified in TBT-07-019.

Please pass this notice to port directors, assistant port directors (trade), import specialists, CBP officers, entry specialists, brokers, importers and other interested parties.

INFORMATION

For additional information, please contact International Trade Specialist Diane Liberta at (202) 863-6241, Import Specialist Nancy Mondich at (202) 863-6524, or Textile Operations Branch Chief Robert Abels at (202) 863-6503 in the Office of International Trade.



Brenda B. Smith

cc: Assistant Directors, Trade, Field Operations
Assistant Directors, Border Security
Assistant Directors, Mission Support
Director, Trade Operations Division
National Import Specialists

Appendix B

