

March 20, 2007

ENT-14 OT:TPP:TEO:TO JS

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS
ASSISTANT DIRECTORS, TRADE, FIELD OPERATIONS
OFFICE OF FIELD OPERATIONS

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

SUBJECT: Implementation Information on the Haitian Hemispheric
Opportunity through Partnership Encouragement Act of 2006
(HOPE) for Certain Wiring Sets and Certain Apparel
Products (referred to as TBT-07-006)

BACKGROUND

Title V of the Tax Relief and Health Care Act of 2006 ("the Act"), which was signed into law on December 20, 2006, amended the Caribbean Basin Economic Recovery Act (CBERA 19 U.S.C. 2701-2707) and authorized the President to extend additional trade benefits to Haiti. This trade program, entitled the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE), provides duty-free treatment for certain wiring sets and certain apparel from Haiti. This notice addresses the requirements for entry and the acceptance of claims for preferential treatment under Haitian HOPE.

On March 20, 2007, the President certified to Congress that Haiti is now eligible for duty-free treatment on certain wiring sets and apparel, provided the articles meet the conditions set forth in the legislation and outlined in these implementing instructions. Preferential tariff treatment provided under Haitian HOPE will remain in effect for five succeeding one-year periods, ending on December 19, 2011.

Until interim regulations are issued, the trade community is to follow the information given herein. This information may be subject to change based on the interim regulations. Interim regulations are expected to be published in the Federal Register on or about June 20, 2007.

WIRING SETS

For wiring sets of the kind used in vehicles, aircraft or ships, entered or withdrawn from warehouse for consumption, between January 4, 2007, and December 19, 2011, the Harmonized Tariff Schedule of the United States (HTSUS) is modified by inserting a new U.S. Note 6 to Subchapter XX designating tariff item 9820.85.44 to provide duty free entry of wiring sets which are products of Haiti and classifiable in subheading 8544.30.00. Wiring sets must be imported directly into the commerce of the United States from Haiti and must meet a value content requirement of at least 50 percent of the value of the good. For purposes of meeting the value content requirement, the value of materials produced in a beneficiary country, as described in this notice, may be accumulated.

ENTRY REQUIREMENTS FOR CLAIMING HAITIAN HOPE DUTY-FREE TREATMENT FOR APPAREL ARTICLES

In order for apparel to receive preferential tariff treatment under Haitian HOPE, all of the following requirements must be met:

1. The President has certified that Haiti has met all requirements and conditions of Title V, Section 5002(d) and (e) of the Act. On March 20, 2007, the President determined that Haiti has satisfied all of the requirements and conditions, and certified such to Congress.
2. The apparel must be wholly assembled or knit-to-shape in Haiti.
3. The apparel must be imported directly from Haiti.
4. The apparel must be classifiable in the HTSUS chapters 61 or 62; or heading 6501, 6502, 6503, or 6504; or subheading 6406.99.15 or 6505.90.
5. The apparel must be classified under one of the designated Haitian HOPE duty-free HTSUS numbers, along with the associated apparel number identified in item 4 above. The designated Haitian HOPE duty-free HTSUS numbers for apparel are 9820.61.25, 9820.61.30, 9820.62.05, and 9820.62.12.
6. The entered value of the eligible apparel must be reported under the apparel HTSUS classification identified in item 4 above. No value should be reflected under the HTSUS 9820 classification.
7. Certain apparel must meet applicable value added requirements, and the importer must be able to demonstrate that the goods meet the required percentage, either on an individual entry basis or by aggregation, as described in the Value Content Requirements section of this notice.

8. The quantitative levels established under Haitian HOPE for eligible apparel must not be filled at the time of the claim. If these levels are filled, articles will be classified under the proper apparel tariff number and subject to the Normal Trade Relations (NTR) rate of duty.
9. A visa is required for all apparel for which preferential treatment is claimed under Haitian HOPE. A valid, original textile visa issued by the Government of Haiti must be presented to U.S. Customs and Border Protection (CBP) when making the claim for preferential tariff treatment. This visa must comply with the visa arrangement as outlined in the Visa Requirement section of this notice.
10. Apparel entered under HTSUS 9820.61.25, 9820.61.30, 9820.62.05, and 9820.62.12 must be filed as quota/visa type entries (i.e., "02," "32") and reported in the quota module. The visa numbers must be reported in the visa field, block 34, of the CBP Form 7501.

Please note that all existing importing requirements remain in effect and have not changed. The above documentation requirements are in addition to any other entry documents.

TERMINOLOGY GUIDANCE

Apparel refers to goods classifiable in Chapters 61 and 62; headings 6501, 6502, 6503, and 6504; and subheadings 6406.99.15 and 6505.90 of the HTSUS.

Applicable 1-year period means each of the following 1-year periods:

1. Initial applicable 1-year period means the period beginning on December 20, 2006, and ending on December 19, 2007.
2. Second applicable 1-year period means the period beginning on December 20, 2007, and ending on December 19, 2008.
3. Third applicable 1-year period means the period beginning on December 20, 2008, and ending on December 19, 2009.
4. Fourth applicable 1-year period means the period beginning on December 20, 2009, and ending on December 19, 2010.
5. Fifth applicable 1-year period means the period beginning on December 20, 2010, and ending on December 19, 2011.

Declared customs value is the value of an imported article determined in accordance with § 402 of the Tariff Act of 1930, as amended (19 U.S.C. 1401a).

Customs territory means the 50 states, the District of Columbia, and Puerto Rico.

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

Producer means an individual, corporation, partnership, association, or other entity or group that exercises direct, daily operational control over the production process in Haiti.

Beneficiary country, when used in reference to eligibility for benefits under Haitian HOPE, includes:

1. The United States;
2. Any country that is a Party to a current Free Trade Agreement (FTA) with the United States or that enters into a FTA under the Bipartisan Trade Promotion Authority Act of 2002; and
3. Any country designated as a beneficiary country under the African Growth and Opportunity Act (AGOA), the Caribbean Basin Trade Partnership Act (CBTPA), or the Andean Trade Promotion and Drug Eradication Act (ATPDEA).

Foreign material means a material produced in a country other than Haiti or any beneficiary country.

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

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

Major parts means integral components of an apparel article but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts or components.

Wholly assembled in Haiti means that all of the components of the apparel (including thread, decorative embellishments, buttons, zippers, or similar components) were joined together in Haiti.

Cost or value of materials when used in reference to eligibility for benefits under Haitian HOPE for apparel articles means materials produced in Haiti or one or more beneficiary countries and includes materials incorporated into an article that are either:

1. Wholly obtained or produced, within the meaning of 19 CFR § 102.1(g), in Haiti or one or more of the beneficiary countries; or
2. Determined to originate in Haiti or one or more of the beneficiary countries, as described in 19 CFR § 102.21.

Imported Directly means any of the following:

1. Direct shipment from Haiti to the United States without passing through the territory of any intermediate country;
2. A shipment is from Haiti to the United States through the territory of an intermediate country, but the articles in the shipment do not enter into the commerce of the intermediate country, and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or
3. A shipment is from Haiti to the United States through an intermediate country, and the invoices and other documents do not show the United States as the final destination, but the articles in the shipment remained under the control of the customs authority in the intermediate country, did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail, were imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent, and have not been subjected to operations other than loading and unloading and other activities necessary to preserve the articles in good condition.

APPAREL ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT / HTSUS CLASSIFICATIONS

Duty free treatment applies to the following apparel:

1. Apparel of a producer or entity controlling production that is wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns subject to the applicable value content requirement (HTSUS 9820.61.25 or 9820.61.30).
2. Woven apparel classifiable in Chapter 62 of the HTSUS (other than brassieres of subheading 6212.10 of the HTSUS) that is wholly assembled in Haiti and is eligible for preferential treatment except that it does not meet the applicable value content requirement (HTSUS 9820.62.05).
3. Brassieres, classified in subheading 6212.10 of the HTSUS, that are both cut and sewn or otherwise assembled in Haiti or the United States, or both, without regard to the source of the fabric or components used to make the brassieres (HTSUS 9820.62.12).

VALUE CONTENT REQUIREMENTS

Apparel, described in 1 above and classified in 9820.61.25 or 9820.61.30, must meet certain value content requirements in order to be eligible for duty free treatment. The value content requirement is a percentage of the declared customs value.

The value content requirement may be met either on individual entries (9820.61.25) or by aggregation (9820.61.30) of all entries from a producer or entity controlling production over an applicable 1-year period. However, apparel shipments from a

producer or entity controlling production cannot qualify for preferential treatment under both the individual entry and the aggregation methods in any applicable 1-year period. Therefore, an importer must have knowledge of the way in which the apparel it imports from each producer or entity controlling production meets the value content requirement. The importer will declare to CBP the method used on such entries by the classification it uses on its first shipment in any applicable 1-year period.

Regardless of the method used to meet the value content requirement:

The value content will consist of the sum of:

1. the cost or value of the materials produced in Haiti or one or more beneficiary countries; and
2. the direct costs of processing operations performed in Haiti or one or more beneficiary countries.

Deductions in the cost or value of the materials will be made for the cost or value of:

1. any foreign materials used in the production of the apparel in Haiti; and
2. any foreign materials used in the production of the materials produced in Haiti or one or more of the beneficiary countries.

For example, if certain apparel was wholly assembled in Haiti from apparel components cut in Singapore from fabric made in China, the cost of the Chinese fabric would be deducted when calculating the value content. Only the direct cost of processing operations relating to the cutting in Singapore and sewing in Haiti would be included.

The value content percentage for each applicable 1-year period is as follows:

Initial applicable 1-year period	50%
Second applicable 1-year period	50%
Third applicable 1-year period	50%
Fourth applicable 1-year period	55%
Fifth applicable 1-year period	60%

SHORT SUPPLY

For the purposes of determining the applicable value content percentage, the following should not be excluded as foreign material:

1. The costs of fabrics or yarns, to the extent that apparel of such fabrics or yarns would be eligible for preferential treatment under the North American Free Trade Agreement (NAFTA), without regard to the source of the fabrics or yarn, under general note 12(t) to the tariff schedule; and
2. The costs of fabrics or yarns that are designated as not being available in commercial quantities for purposes of the below HTSUS subheadings without regard to the source of the fabrics or yarns:
 - (i) 9820.11.27, CBPTA,
 - (ii) 9819.11.24, AGOA,

- (iii) 9821.11.10, ATPDEA, and
- (iv) 9822.05.01, Dominican Republic – Central American – United States Free Trade Agreement (CAFTA-DR).

ANNUAL AGGREGATION

In calculating cost or value under the aggregation method (HTSUS 9820.61.30), the following rules apply:

1. Entries of woven apparel, receiving preferential treatment under HTSUS 9820.62.05, cannot be included in an annual aggregation.
2. Entries of brassieres, receiving preferential treatment under HTSUS 9820.62.12, are not included in an aggregation unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries.
3. Entries of apparel that receive preferential treatment under any provision of the tariff schedule other than under Haitian HOPE, or that are subject to the NTR rate of duty, are not included in an annual aggregation, unless the producer or entity controlling production elects, at the time the annual aggregation calculation is made, to include such entries.

DECLARATION OF COMPLIANCE

Each importer of record that enters apparel under the annual aggregation method to satisfy the applicable value content requirements must prepare and submit to CBP a declaration of compliance with the applicable value content requirement within 30 days following the end of the initial applicable 1-year period and each applicable 1-year period thereafter.

A separate declaration is required for each importer of record number used to import apparel under the aggregation method.

Entries filed in any 1-year period under HTSUS 9820.61.30 will not be liquidated until CBP receives and reviews a declaration of compliance at the end of the period during which the entries were filed.

NON-COMPLIANCE

If CBP determines through a verification process that an individual shipment, entered under HTSUS 9820.61.25, does not satisfy the production or value content requirements, CBP will rate advance that entry.

If CBP determines through a verification process that shipments entered under the aggregation method, HTSUS 9820.61.30, during the initial 1-year applicable period do not satisfy the production or value content requirement, CBP will rate advance all entries from that producer or entity controlling production that were entered under HTSUS 9820.61.30 during that initial applicable 1-year period for all importers of record.

If CBP determines that the producer or entity controlling production does not meet other Haitian HOPE production requirements, such as the apparel not being wholly assembled or not being imported directly from Haiti, the producer or entity controlling production has not met the Haitian HOPE requirements and will be subject to NTR duty rates.

QUANTITATIVE LIMITS

Apparel eligible for preferential treatment is subject to one of two quantitative limits. The first limit is based on set percentages of the aggregate square meter equivalents of all apparel imported into the U.S. in the most recent 12-month period. The second limit is set by the Act itself. These quantitative limits are as follows:

1. Quantitative limits will be established in accordance with the Act for all five applicable 1-year periods for apparel meeting the value content requirement and for brassieres that are both cut and sewn or otherwise assembled in Haiti or the U.S. and entered under HTSUS 9820.61.25, 9820.61.30 and 9820.62.12. The quantitative limits for each applicable 1-year period will be published in QBT-07-002.
2. Quantitative limits for the initial, second, and third applicable 1-year periods for woven apparel of chapter 62 that does not meet the value content rule but may receive preferential treatment if entered under HTS 9820.62.05 will be published in QBT-07-002.

VISA ARRANGEMENT / REQUIREMENTS

In order for an importer to claim duty-free treatment for a shipment of apparel under Haitian HOPE, an original visa issued by the Government of Haiti must be presented to CBP at the time of entry, or withdrawal from warehouse for consumption, into the customs territory of the United States.

A visa shall be issued for a shipment by the stamping of the original circular visa in blue ink only on the front of the original commercial invoice that will accompany each shipment. The original visa shall not be stamped on duplicate copies of the invoice or any other document. The original invoice with the original visa stamp will be required to enter the shipment claiming preferential tariff treatment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

Each visa stamp shall include a visa number in a standard nine-digit letter format beginning with one numeric digit, as defined below, followed by the two character alpha code specified by the International Organization for Standardization (ISO) for Haiti (HT), followed by a six-digit sequential number.

The first digit of the visa number must be one of the following:

- 1 = the cutting and assembly process was performed in Haiti using beneficiary country fabric. For example, 1HT000001 indicates that the manufacturer in Haiti cut and assembled fabric that was produced either in Haiti, the United States, or a beneficiary country.
- 2 = the cutting and assembly process was performed in Haiti using other than beneficiary country fabric. For example, 2HT000001 indicates that the manufacturer in Haiti cut and assembled fabric made in, e.g., China, Korea, or Taiwan.
- 3 = the assembly process was performed in Haiti using beneficiary country fabric components. For example, 3HT000001 indicates that the goods were assembled in Haiti from fabric components cut in beneficiary countries.
- 4 = the assembly process was performed in Haiti using other than beneficiary country fabric components. For example, 4HT000001 indicates that assembly occurred in Haiti using fabric components cut in other than beneficiary countries, e.g., China.
- 5 = the knit-to-shape process (panel knitting and assembly) was performed in Haiti. For example, 5HT000001 indicates that the knitting of the sweater panels and the linking and looping of the panels occurred in Haiti.
- 6 = the cutting and assembly process for manufacturing brassieres was performed only in Haiti and/or the United States. For example, 6HT000001 indicates that the imported apparel is brassieres that were cut and assembled in Haiti.
- 7 = none of the above. For example, 7HT000001 may indicate that Haiti performed some of the cutting and all of the assembly using beneficiary country fabric as well as fabric from other than beneficiary countries. 7HT000002 may indicate that Haiti produced a garment that has components knit-to-shape completely in Haiti and components that are cut and sewn from beneficiary country fabric.

The visa stamp must include the signature of the issuing official in Haiti with his or her name and title typed or stamped below his or her signature.

The visa stamp must include the date of issuance, which is the day, month and year the visa was signed by the issuing official in Haiti.

The visa stamp must include the total quantity, which must be reported in whole dozens.

If there are different types of garments in the same shipment, the total quantity should be reported in the visa stamp. For example, 200 dozen tops and 300 dozen pants will be reported as 500 dozen in the visa stamp. Sets, such as a two-piece jogging set consisting of 100 dozen tops and bottoms, will be reported as 200 dozen.

If the quantity is less than one-half dozen, then it will be rounded down (i.e., 4 dozen and 4 pieces would be 4 dozen); if the quantity is one-half dozen or greater, then it will be rounded up (i.e., 4 dozen and 6 pieces, would be 5 dozen). If the total quantity in the shipment is less than 1 dozen, even if it is less than a half-dozen, the quantity shown will always be 1 dozen (i.e., 3 pieces or 6 pieces will be reported as 1 dozen). CBP will not accept visas with fractions or decimals.

If the quantity indicated on the visa is less than that of the shipment, only the quantity shown on the visa will be eligible for preferential tariff treatment.

If the quantity indicated on the visa is more than that of the shipment, only the quantity of the shipment will be eligible for preferential tariff treatment. Any overage cannot be applied to any other shipment.

The visa will not be accepted and preferential tariff treatment will not be permitted if the visa number, quantity, name and signature of the authorized official, or date of issuance, is missing, incorrect, illegible or has been crossed out or altered in any way.

If the commercial invoice, on which the visa is stamped, is deemed invalid, CBP will not return the original document after entry, but will provide a certified copy of that commercial invoice which contains the visa stamp for use in obtaining a new, correct, original commercial invoice on which a new visa must be stamped.

If a visa is not acceptable, then a new visa must be obtained from Haiti before preferential tariff treatment can be claimed. Visa waivers are not permitted.

VERIFICATION OF CLAIMS FOR PREFERENTIAL TARIFF TREATMENT UNDER HAITIAN HOPE

A claim for duty-free treatment made under Haitian HOPE may be subject to CBP verification. In the event that CBP is prevented from verifying the claim or is provided with insufficient information to verify or substantiate the claim, CBP may deny the claim for duty-free treatment.

POST ENTRY PROCEDURES

If an importer does not make a claim for preference for apparel or wiring sets under Haitian HOPE at the time of entry, the importer can avail itself of all available post entry procedures with the exception of 19 U.S.C. 520(d) post importation procedures. Post entry procedures are available for any qualifying apparel entered, or withdrawn from

warehouse for consumption, on or after March 20, 2007 and for wiring sets entered, or withdrawn from warehouse for consumption, on or after January 4, 2007.

ACTION

For qualifying apparel entered, or withdrawn from warehouse for consumption, on or after March 20, 2007, and qualifying wiring sets entered, or withdrawn from warehouse for consumption, on or after January 4, 2007, claims for preferential tariff treatment under Haitian HOPE may be made if all requirements are met as outlined in this notice.

Until the necessary ACS programming is completed, entries for articles classified in HTSUS numbers 9820.61.25, 9820.61.30, 9820.62.05, 9820.62.12, and 9820.85.44 must be filed non-ABI.

A notice will be issued when the programming has been completed.

Please pass this memorandum to Port Directors, Assistant Port Directors, Import Specialists, CBP Officers, Entry Specialists, Brokers, Importers and Other Interested Parties.

INFORMATION

If you have questions concerning wiring sets, please call Ms. Lori Whitehurst at (202) 344-2722. If you have questions concerning apparel, please call Ms. Nancy Mondich at (202) 344-2166, Ms. Jacqueline Sprungle at (202) 344-2277, Ms. Susan Thomas at (202) 344-3719, or Mr. Robert Abels at (202) 344-1959.

/s/

Anne Maricich

cc: National Account Managers
New York Strategic Trade Center
National Commodity Specialists Division