

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

27 March 2006

Mr. Julio Teran
Vice Minister of Trade
Republic of Nicaragua
Managua, Nicaragua

Dear Vice Minister Teran:

I am pleased to acknowledge your letter of today's date, which reads as follows:

"I have the honor to confirm the following understandings reached between our Governments regarding Article 3.20 (Refund of Customs Duties) and Article 3.25 (Rules of Origin and Related Matters) of the Dominican Republic – Central America – United States Free Trade Agreement signed on August 5, 2004 (the "Agreement"):

- (1) After the Agreement enters into force, the United States will propose a modification to the Agreement's rules of origin, pursuant to Article 3.25 of the Agreement. This modification will provide that if a good of the U.S. Harmonized Tariff Schedule (HTS) Chapters 61 and 62 contains a pocket or pockets, the pocket bag fabric must be formed and finished in the territory of one or more of the Parties from yarn wholly formed in one or more of the Parties] in order for an apparel good to qualify as an originating good under the Agreement ("pocket fabric rule of origin modification").
- (2) Nicaragua is prepared to engage in Article 3.25 consultations immediately after the Agreement enters into force, and will agree to the pocket fabric rule of origin modification in those consultations without condition or delay.
- (3) The application by Nicaragua of the pocket fabric rule of origin modification will provide a benefit to the United States that satisfies the requirements of Article 3.20.3 of the Agreement.
- (4) In light of Nicaragua's unconditional commitment to agree to the pocket fabric rule of origin modification, the United States will provide duty refunds as provided for under Article 3.20.1 of the Agreement with respect to imports of textile or apparel goods of Nicaragua that were imported into the United States between January 1, 2004 and the date of entry into force of the Agreement for Nicaragua and that satisfy the other requirements of that article.

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- (5) After the Agreement enters into force, Nicaragua will propose a modification, pursuant to Article 22.2 of the Agreement, to the tariff preference level (TPL) set out in Annex 3.28 of the Agreement. This modification will provide that men's wool sport coats in textile category 433 shall qualify for preferential tariff treatment under the TPL, provided that the component that determines the tariff classification of the good is of carded wool classified in tariff item 5111.11.7030, 5111.11.7060, 5111.19.6020, 5111.19.6040, 5111.19.6060, 5111.19.6080, or 5111.90.9000, and provided that the good satisfies all other applicable requirements of Annex 3.28 of the Agreement. The total quantity of such men's wool sport coats that may qualify for preferential tariff treatment under the TPL shall be subject to an annual sublimit of 1.5 million square meter equivalents (SME) within the overall TPL limit.
- (6) After the Agreement enters into force, Nicaragua will propose a further modification, pursuant to Article 22.2 of the Agreement, to the tariff preference level (TPL) set out in Annex 3.28 of the Agreement. This modification will provide that the overall limit in the sixth through the ninth years of the Agreement set forth in subparagraphs 4(b) to 4(e) of Annex 3.28 shall be increased to 100 million SME in each of those years. Nicaragua shall further propose to amend Annex 3.28 of the Agreement to provide that, upon the written request of Nicaragua, the United States shall require an importer claiming preferential treatment under the TPL to submit to the United States a certificate of eligibility, properly completed and signed by an authorized official of Nicaragua and presented at the time of importation into the United States.
- (7) Further, Nicaragua reiterates its commitment of July 18, 2005 regarding its administration of the TPL with respect to cotton and man-made woven trousers in textile categories 347/348 and 647/648.
- (a) This commitment shall apply to cotton woven trousers in textile categories 347/348 and to man-made fiber woven trousers in textile categories 647/648 that are classified in Chapter 62 of the Harmonized System and exported to the United States from Nicaragua and entered under the TPL.
- (b) Specifically, for each square meter equivalent (SME) of exports entered under the TPL and identified in subparagraph (a), Nicaragua will export to the United States an equal amount of cotton and man-made fiber woven trousers made of U.S.-formed fabric of U.S.-formed yarn (one-for-one purchasing). For purposes of complying with the one-for-one purchasing rule, exports of U.S.-formed fabric of U.S.-formed yarn need not be of the same tariff items as exports entered under the TPL, so long as both are contained within the tariff classification identified in subparagraph

(a). This one-for-one purchasing rule shall apply to all imports of cotton and man-made fiber woven trousers entered under the TPL, except that the one-for-one purchasing rule shall only apply to cotton woven trousers as follows:

- (i) in the first year after the date of entry into force of the Agreement, to the first 20 million SME of cotton woven trousers imported into the United States under the TPL;
- (ii) in the second year of the Agreement, to the first 30 million SME of such imports;
- (iii) in the third year of the Agreement, to the first 40 million SME of such imports; and
- (iv) in the fourth and subsequent years of the Agreement, to the first 50 million SME of such imports.

Any exports of cotton woven trousers made under the TPL in excess of the specified quantities in clauses (i) to (iv) shall not be subject to the one-for-one purchasing rule.

- (c) Beginning on January 1, 2007, and annually thereafter, Nicaragua shall provide the United States with shipment-specific data regarding all exports to the United States of both woven trousers under the TPL and woven trousers made from U.S.-formed fabric of U.S.-formed yarn required under the one-for-one purchasing rule, including the specific sources of the U.S.-formed fabrics used, via a certificate of eligibility, during the prior year. The United States will verify these data with the U.S. fabric producers and will determine whether the amount of the cotton and man-made fiber woven trouser exports made under the TPL exceeded the amount of exports of cotton and man-made fiber woven trousers made from U.S.-formed fabric of U.S.-formed yarn required under the one-for-one purchasing rule. Any such excess in a given year that is not rectified by April 1 of the following year shall be charged to Nicaragua's TPL for that year.
- (d) The United States may require an importer to declare that a particular entry of originating cotton or man-made fiber woven trousers is made with U.S.-formed fabric of U.S.-formed yarn in order for that entry to be counted as fulfilling the one-for-one purchasing rule in subparagraph (b).

- (8) The United States is prepared to engage in consultations regarding the proposed modifications described in paragraphs (5) and (6) immediately after the Agreement enters into force, and will agree to the proposed modifications in those consultations without condition or delay.
- (9) Subject to the acceptance of the proposed modifications described in paragraphs (1), (5), and (6) by the other Parties to the Agreement, and after the proposed modifications are approved in accordance with the applicable legal procedures of each of the Parties, Nicaragua and the United States shall implement the proposed modifications on a date the Parties shall determine.
- (10) Nicaragua and the United States acknowledge that, if another Party proposes a modification of the rules of origin pursuant to Article 3.25 of the Agreement, such modification shall, if accepted by the other Parties, approved in accordance with the applicable legal procedures of each of the Parties, and implemented in accordance with Article 3.25.3, supersede the prior rule of origin as applied to goods of all of the Parties.

Pursuant to Articles 3.20.2 and 3.20.3 of the Agreement, this letter provides notice that Nicaragua will not comply with Article 3.20.1 of the Agreement and that Nicaragua will instead provide a benefit, in the form of the pocket fabric rule of origin modification that our two Governments consider to satisfy the requirements of Article 3.20.3 of the Agreement.

I have the honor to propose that this letter and your letter of confirmation in reply shall constitute an agreement between our two Governments.”

I have the honor to confirm that the understandings referred to in your letter are shared by my Government, and that your letter and this reply shall constitute an agreement between our two Governments.

Sincerely,



Scott Quesenberry
Special Textile Negotiator

cc:

Ms. Doris Osterlof, Vice Minister of Foreign Trade of Costa Rica
Mr. Marcello Puello, Vice Minister of Trade of the Dominican Republic
Mr. Eduardo Ayala, Vice Minister of Economy of El Salvador
Mr. Enrique Lacs, Vice Minister of Economy of Guatemala
Mr. Jorge Rosa, Vice Minister of Foreign Trade of Honduras