

§ 10.843

19 CFR Ch. I (4–1–12 Edition)

eligible countries described in § 10.844(c) of this subpart.

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

§ 10.843 Articles eligible for duty-free treatment.

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

(a) *Certain apparel articles.* Apparel articles of a producer or entity controlling production that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, and yarns, subject to the applicable quantitative limits set forth in U.S. Note 6(g), Subchapter XX, Chapter 98, HTSUS, and provided that the applicable value-content requirement set forth in § 10.844(a) of this subpart is met through the use of:

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

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

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

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

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

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

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

(A) All white T-shirts, with short hemmed sleeves and hemmed bottom, with crew or round neckline or with V-neck and with a mitered seam at the center of the V, and without pockets, trim, or embroidery;

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

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

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

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

(A) Sweatshirts; and

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

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

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

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

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

(f) *Luggage and similar items.* Articles classifiable in subheading 4202.12, 4202.22, 4202.32, or 4202.92 of the HTSUS that are wholly assembled in Haiti, without regard to the source of the fabric, components, or materials from which the article is made.

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

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

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

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

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

(j) *Apparel articles of short supply materials.* Apparel articles that are wholly assembled or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape, or yarns, without regard to the source of the fabrics, fabric components, components knit-to-shape, or yarns from which the article is made, if the fabrics, fabric components, components knit-to-shape, or yarns comprising the component that determines the tariff classification of the article are of any of the following:

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

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

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

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

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

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

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

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

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

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

§ 10.844 Value-content requirement.

(a) *Certain apparel articles—(1) General.* Except as provided in paragraph (a)(2) of this section, apparel articles described in §10.843(a) of this subpart will be eligible for duty-free treatment only if, for each entry of such articles in the applicable one-year period for which a duty-free claim is made for such articles under §10.847(a) of this subpart, the sum of the cost or value of the materials produced in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, plus the direct costs of processing operations performed in Haiti or one or more eligible countries described in paragraph (c) of this section, or any combination thereof, is not less than (as applicable):

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

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

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

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

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

(iii) *Exclusions from annual aggregation calculation.* The entry of an apparel article that is wholly assembled or knit-to-shape in Haiti and is receiving preferential tariff treatment under any provision of law other than section 213A(b)(1) of the CBERA (19 U.S.C. 2703A(b)(1)) or is subject to the “General” subcolumn of column 1 of the HTSUS will only be included in an annual aggregation under paragraph