

§ 10.191

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claimed to be duty-free under this section. Proof of end use of the entered merchandise need not be maintained.

(f) *Post-entry claim.* An importer may file a claim for duty-free treatment under General Note 6, HTSUS, after filing an entry that made no such duty-free claim, by filing a written statement with Customs any time prior to liquidation of the entry or prior to the liquidation becoming final. When filed, the written statement constitutes the importer's claim for duty-free treatment under the general note and its certification that the entered merchandise is a civil aircraft or has been imported for use in a civil aircraft and will be so used. In accordance with General Note 6, HTSUS, any refund resulting from a claim made under this paragraph will be without interest, notwithstanding the provision of 19 U.S.C. 1505(c).

(g) *Verification.* The port director will monitor and periodically audit selected entries made under this section.

[T.D. 02–31, 67 FR 39289, June 7, 2002]

Subpart B—Caribbean Basin Initiative

SOURCE: Sections 10.191 through 10.197 issued by T.D. 84–237, 49 FR 47993, Dec. 7, 1984, unless otherwise noted.

§ 10.191 General.

(a) *Statutory authority.* Subtitle A, Title II, Pub. L. 98–67, entitled the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701–2706) and referred to as the Caribbean Basin Initiative (CBI), authorizes the President to proclaim duty-free treatment for all eligible articles from any beneficiary country.

(b) *Definitions—(1) Beneficiary country.* For purposes of § 10.191 through § 10.199 and except as otherwise provided in § 10.195(b), the term “beneficiary country” means any country or territory or successor political entity with respect to which there is in effect a proclamation by the President designating such country, territory or successor political entity as a beneficiary country in accordance with section 212(a)(1)(A) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(a)(1)(A)). See General Note 7(a),

Harmonized Tariff Schedule of the United States (HTSUS). For purposes of this paragraph, when the word “former” is used in conjunction with the term “beneficiary country”, it means a country that ceases to be designated as a beneficiary country under the CBERA because the country has become a party to a free trade agreement with the United States. See General Note 7(b)(i)(C), HTSUS.

(2) *Eligible articles.* Except as provided herein, for purposes of § 10.191(a), the term “eligible articles” means any merchandise which is imported directly from a beneficiary country as provided in § 10.193 and which meets the country of origin criteria set forth in § 10.195 or in § 10.198b. The following merchandise shall not be considered eligible articles entitled to duty-free treatment under the CBI.

(i) Textile and apparel articles which were not eligible articles for purposes of the CBI on January 1, 1994, as the CBI was in effect on that date.

(ii) Footwear not designated on August 5, 1983, as eligible articles for the purpose of the Generalized System of Preferences under Title V, Trade Act of 1974, as amended (19 U.S.C. 2461 through 2467).

(iii) Tuna, prepared or preserved in any manner, in airtight containers.

(iv) Petroleum, or any product derived from petroleum, provided for in headings 2709 and 2710, HTSUS.

(v) Watches and watch parts (including cases, bracelets and straps), of whatever type including, but not limited to, mechanical, quartz digital or quartz analog, if such watches or watch parts contain any material which is the product of any country with respect to which HTSUS column 2 rates of duty apply.

(vi) Articles to which reduced rates of duty apply under § 10.198a.

(vii) Sugars, sirups, and molasses, provided for in subheadings 1701.11.00 and 1701.12.00, HTSUS, to the extent that importation and duty-free treatment of such articles are limited by Additional U.S. Note 4, Chapter 17, HTSUS.

(viii) Articles subject to the provisions of the subheadings of Subchapter III, from the beginning through 9903.85.21, Chapter 99, HTSUS, to the

extent that such provisions have not been modified or terminated by the President pursuant to section 213(e)(5) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703(e)(5)).

(ix) Merchandise for which duty-free treatment under the CBI is suspended or withdrawn by the President pursuant to sections 213 (c)(2), (e)(1), or (f)(3) of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703 (c)(2), (e)(1), or (f)(3)).

(3) *Wholly the growth, product, or manufacture of a beneficiary country.* For purposes of §10.191 through §10.199, the expression “wholly the growth, product, or manufacture of a beneficiary country” refers both to any article which has been entirely grown, produced, or manufactured in a beneficiary country or two or more beneficiary countries and to all materials incorporated in an article which have been entirely grown, produced, or manufactured in any beneficiary country or two or more beneficiary countries, as distinguished from articles or materials imported into a beneficiary country from a non-beneficiary country whether or not such articles or materials were substantially transformed into new or different articles of commerce after their importation into the beneficiary country.

(4) *Entered.* For purposes of §10.191 through §10.199, the term “entered” means entered, or withdrawn from warehouse for consumption, in the customs territory of the U.S.

[T.D. 84-237, 49 FR 47993, Dec. 7, 1984, as amended by T.D. 89-1, 53 FR 51252, Dec. 21, 1988; T.D. 00-68, 65 FR 59657, Oct. 5, 2000; T.D. 01-17, 66 FR 9645, Feb. 9, 2001; CBP Dec. 10-29, 75 FR 52450, Aug. 26, 2010]

§10.192 Claim for exemption from duty under the CBI.

A claim for an exemption from duty on the ground that the CBI applies shall be allowed by the port director only if he is satisfied that the requirements set forth in this section and §10.193 through §10.198b have been met. Duty-free treatment may be claimed at the time of filing the entry summary by placing the symbol “E” as a prefix to the HTSUS subheading number for

each article for which such treatment is claimed on that document.

[T.D. 84-237, 49 FR 47993, Dec. 7, 1984, as amended by T.D. 89-1, 53 FR 51252, Dec. 21, 1988; T.D. 94-47, 59 FR 25570, May 17, 1994; T.D. 00-68, 65 FR 59658, Oct. 5, 2000]

§ 10.193 Imported directly.

To qualify for treatment under the CBI, an article shall be imported directly from a beneficiary country into the customs territory of the U.S. For purposes of §10.191 through §10.198b the words “imported directly” mean:

(a) Direct shipment from any beneficiary country to the U.S. without passing through the territory of any non-beneficiary country; or

(b) If the shipment is from any beneficiary country to the U.S. through the territory of any non-beneficiary country, the articles in the shipment do not enter into the commerce of any non-beneficiary country while en route to the U.S. and the invoices, bills of lading, and other shipping documents show the U.S. as the final destination; or

(c) If the shipment is from any beneficiary country to the U.S. through the territory of any non-beneficiary country, and the invoices and other documents do not show the U.S. as the final destination, the articles in the shipment upon arrival in the U.S. are imported directly only if they:

(1) Remained under the control of the customs authority of the intermediate country;

(2) Did not enter into the commerce of the intermediate country except for the purpose of sale other than at retail, and the port director is satisfied that the importation results from the original commercial transaction between the importer and the producer or the latter’s sales agent; and

(3) Were not subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

[T.D. 84-237, 49 FR 47993, Dec. 7, 1984, as amended by T.D. 00-68, 65 FR 59658, Oct. 5, 2000]

§ 10.194 Evidence of direct shipment.

(a) *Documents constituting evidence of direct shipment.* The port director may