

October 16, 2008

MEMORANDUM FOR: Directors, Field Operations
Assistant Directors Trade, Field Operations
Office of Field Operations

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

SUBJECT: TBT-08-013 Amendments under the Haitian Hemispheric
Opportunity through Partnership Encouragement Act of 2008
(HOPE II Act) for Certain Apparel and Other Articles

REFERENCE: QBT-08-108 2009 Apparel Subject to Restraint Limits and/or
Visa Requirements Under Haiti HOPE II
TBT-07-006 Haiti HOPE Implementation Instructions
TBT-08-003 Submission of Haiti HOPE Declaration of
Compliance for Apparel
TBT-07-008 Haiti HOPE Entry Processing Update

BACKGROUND

On June 18, 2008 Congress voted into law the Food Conservation and Energy Act of 2008 (Farm Bill 2008), which includes modifications to the Caribbean Basin Economic Recovery Act and the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2006 (HOPE Act 2006). These modifications, which are found in Title XV, Subtitle D, Part I, of the Farm Bill 2008, are known as the Haitian Hemispheric Opportunity through Partnership Encouragement Act of 2008 (HOPE II Act). On September 30, 2008, Presidential Proclamation 8296 was signed implementing the modifications of the HOPE II Act. On October 3, 2008, the Proclamation and Annex, identifying the changes to the Harmonized Tariff Schedule Chapter 98, Subchapter XX were published in the *Federal Register* (73 FR 57475).

In accordance with Section 15412 of the HOPE II Act, the modifications will take effect on October 1, 2008 for goods that are entered, or withdrawn from warehouse, for consumption, and will continue for the specific period provided for under each subdivision as noted. This administrative notice details the modifications set forth in Section 15402 of the Act. All other information relating to HOPE found in TBT 07-006 remains in effect.

SUMMARY OF CHANGES

- 1) Apparel meeting the value requirement is subject to a quantitative limit, which is based on the percentage of aggregate square meter equivalents of all apparel imported into the United States during the previous year. For the third, fourth and fifth years, the percentage has been reduced to 1.25 percent of the aggregate trade during the previous years. Also, exclusions from the annual aggregate calculation have been modified.
- 2) The TPL limit for woven apparel has been increased and the provision extended for nine years.
- 3) A new TPL for knit apparel, with certain exclusions, has been created and given the same quantitative limit as the woven TPL. This provision has been established for nine years.
- 4) The brassiere provision has been expanded and revised. The cutting in Haiti requirement has been eliminated along with the quantitative limit.
- 5) A new provision for certain knit and woven articles (the same as those eligible for single transformation under DR-CAFTA) has been added with no quantitative limit.
- 6) New provisions for certain luggage, headgear, and sleepwear have been added with no quantitative limit.
- 7) An Earned Import Allowance program has been established and will be administered by the Department of Commerce.
- 8) A new provision for Haiti short supply has been created with no quantitative limit.
- 9) The definitions of “knit-to-shape” and “wholly produced” have been provided.
- 10) The direct import requirement now includes a reference to the Dominican Republic.

VISA REQUIREMENT

Because of these amendments and Haiti’s request to go onto the Electronic Visa Information System (ELVIS), the visa requirements have also been modified. A separate TBT will be issued to address the visa changes.

BASIC REQUIREMENTS OF HOPE II

- The goods must be wholly assembled or knit-to-shape in Haiti.
- The goods must be imported directly from Haiti or the Dominican Republic.
- The goods must be classifiable in certain Chapter 42, 61, 62 or 65 tariff numbers of the Harmonized Tariff Schedule of the United States (HTS) as outlined in the “Articles Eligible for Preferential Treatment” section of this notice.
- The goods must be entered with an associated HTS 9820 subheading.
- The goods must be entered with a valid, original textile visa issued by the Government of Haiti. The visa must be presented to U.S. Customs and Border Protection (CBP) when making the

claim for preferential tariff treatment. The visa number must be recorded in block 34 of the CBP Form 7501.

- If the goods are subject to a quantitative limit, they must be entered before that limit fills. Once a quantitative limit is filled, goods will be subject to the Normal Trade Relations (NTR) rate of duty. Information regarding the quantitative limits established under HOPE Act II can be found in QBT 08-108.

Note: The above requirements are in addition to any other entry requirements as required by law.

SPECIAL DEFINITIONS

HOPE Act II provides definitions of the terms “wholly assembled” and “knit-to-shape.” These definitions are found below and supercede any definitions provided in the interim regulations. All other terminology associated with HOPE remains the same as indicated in TBT 07-006.

Wholly assembled: A good is ‘wholly assembled’ in Haiti if all components of the good, of which there must be at least two, pre-existed in essentially the same condition as found in the finished good and were combined to form the finished good in Haiti. Minor attachments and minor embellishments (for example, appliqués, beads, spangles, embroidery, and buttons) not appreciably affecting the identity of the good, and minor subassemblies (for example, collars, cuffs, plackets, and pockets), shall not affect the determination of whether a good is ‘wholly assembled’ in Haiti.

Knit-to-shape: A good is ‘knit-to-shape’ if 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 good, with no consideration being given to patch pockets, appliqués, or the like. Minor cutting, trimming, or sewing of those major parts shall not affect the determination of whether the good is ‘knit-to-shape.’

ARTICLES ELIGIBLE FOR PREFERENTIAL TREATMENT

Initially under the HOPE Act of 2006, four tariff provisions were created for making a claim for preferential treatment. HOPE II Act modifies the existing HTS provisions and creates several new HTS provisions to provide preferential tariff treatment to additional groups of goods. These HTS provisions are found under Chapter 98, Subchapter XX and must be used in conjunction with the appropriate Chapter 42, 61, 62 or 65 HTS numbers when making a HOPE claim.

EXISTING HOPE PROVISIONS

9820.61.25 This subheading provides for knit and woven apparel wholly assembled, or knit-to-shape in Haiti from any combination of fabrics, fabric components, components knit-to-shape and yarns, that meets the value requirement established for each applicable 1-year period on an entry by entry basis. Goods entered under this provision are subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(c)).

- 9820.61.30 This subheading provides for the same type of goods as 9820.61.25, except that the value requirement for each applicable 1 –year period is met by aggregation instead of on an entry by entry basis. Goods entered under this provision are subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(e)(i)).
- 9820.62.05 This subheading provides for woven apparel, wholly assembled, or knit-to-shape, in Haiti regardless of the source of the fabric, fabric components, components knit-to-shape or yarns used to make the apparel. Goods entered under this provision are subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(h)).
- 9820.62.12 This subheading provides for brassieres classified in HTS subheading 6212.10, wholly assembled, or knit-to-shape, in Haiti regardless of the source of the fabric, fabric components, components knit-to-shape, or yarns used to make the goods. This provision is not subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(i)).

NEW HOPE PROVISIONS

- 9820.42.05 This subheading provides for luggage and similar items, classified in the following HTS subheadings, wholly assembled in Haiti regardless of the source of the fabric, fabric components, components knit-to-shape or yarns used to make the goods. This provision is not subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, Note 6(l)).

4202.12.20
4202.12.40
4202.12.60
4202.12.80
4202.22.15
4202.22.35
4202.22.40
4202.22.45
4202.22.60
4202.22.70
4202.22.80
4202.32.10
4202.32.20
4202.32.40
4202.32.80
4202.32.85
4202.32.95
4202.92.04
4202.92.08
4202.92.10

4202.92.15
4202.92.20
4202.92.30
4202.92.45
4202.92.50
4202.92.60
4202.92.90

9820.61.35 This subheading provides for knit apparel wholly assembled, or knit-to-shape, in Haiti regardless of the source of the fabric, fabric components, components knit-to-shape or yarns used to make the apparel. Goods entered under this provision are subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(j)(i)).

Certain goods are excluded from preferential treatment under this provision. HTS Chapter 98, Subchapter XX, U.S. Note 6(j)(ii).

6109.10.0004 Men's or boys' cotton all white t-shirts, with short hemmed sleeves and hemmed bottom, crew, round neckline, or V-neck with a mitered seam at the center of the V, without pockets, trim, or embroidery.

6109.10.0007 Men's or boys' cotton all white singlets, without pockets, trim, or embroidery.

6109.10.0012 Men's cotton other t-shirts, but not including thermal undershirts

6109.10.0014 Boys' cotton other t-shirts, but not including thermal undershirts

6109.90.1007 Men's manmade fiber t-shirts

6109.90.1009 Boys' manmade fiber t-shirts

6110.20.2040 Men's or boys' cotton sweatshirts.

6110.20.2067 Men's or boys' pullovers other than sweaters, vest or garments imported as part of playsuits.

6110.20.2069 Men's or boys' cotton pullovers, other than sweaters, vests, or garments imported as part of playsuits, not subject to Statistical Note 6 of Chapter 61.

6110.30.3040 Men's or boys' man-made fiber sweatshirts containing less than 65 percent by weight of man-made fibers. (Sweatshirts containing 65% or more by weight of man-made fiber are not excluded.)

9820.61.40 This subheading provides preferential treatment for certain knit and woven apparel wholly assembled, or knit-to-shape, in Haiti and classified in the following provisions, regardless of the source of the fabric, fabric components, components knit-to-shape, or yarns used to make the apparel. This provision is not subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(k)(i) and Note 6(k)(ii)).

6102.20.00

6102.90.9005 (for goods subject to cotton restraints)

6104.13.20
6104.19.15
6104.19.6010 (for jackets imported as parts of suits)
6104.19.8010 (for jackets imported as parts of suits, subject to cotton restraints)
6104.19.8060 (for jackets imported as parts of suits, subject to man-made fiber restraints)
6104.22.0010 (for garments described in heading 6102 or jackets and blazers described in heading 6104)
6104.29.2010 (for garments described in heading 6102 or jackets and blazers described in heading 6104, the foregoing subject to cotton restraints)
6104.32.00
6104.39.2010 (for goods subject to cotton restraints)
6112.11.0020 (for women's or girls' garments described in heading 6101 or 6102)
6113.00.9020 (for coats and jackets of cotton, for women or girls)
6117.90.9040 (for coats and jackets of cotton)
6202.12.20
6202.19.9010 (for goods subject to cotton restraints)
6202.91.2011 (for goods for women)
6202.92.15
6202.92.20 (other than padded, sleeveless jackets without attachments for sleeves)
6202.93.45
6202.99.9011 (for goods subject to cotton restraints)
6203.39.9020 (for goods subject to wool restraints)
6204.12.0010 (for jackets imported as parts of suits)
6204.13.20
6204.19.20
6204.19.8010 (for jackets imported as parts of suits and subject to cotton restraints)
6204.19.8060 (for jackets imported as parts of suits subject to man-made fiber restraints)
6204.22.3010 (for garments described in heading 6202, or for jackets and blazers described in heading 6204)
6204.23
6204.29
6204.32
6204.33.20
6204.39.80
6204.42.3040 (for garments for girls, other than of corduroy)
6204.42.3060 (for garments for girls, other than of corduroy)
6204.43.4020 (for garments for girls)
6204.43.4040 (for garments for girls)
6204.44.4020 (for garments for girls)
6205.20.2016 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale)

6205.30.2010 (for dress shirts for men, with two or more colors in the warp and/or the filling, each with collar and sleeve size stated in inches, without dual collar sizing, the foregoing individually packaged with chipboards, pins, jett clips, individual polybags and hang tags ready for retail sale)
6207 (for boxers, pajamas or nightwear only)
6208 (for boxers, pajamas or nightwear only)
6209.20.10
6210.30.9020 (for garments other than of linen)
6210.50.9010 (for anoraks)
6210.50.9050 (for anoraks)
6211.20.1540 (for anoraks (including ski-jackets)), windbreakers and similar articles (including padded, sleeveless jackets), for women or girls, of cotton, imported as parts of ski suits)
6211.20.5810 (for goods of cotton)
6211.41.0055 (for jackets and jacket-type garments excluded from heading 6202)
6211.42.0040 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202)
6211.42.0075 (for track suits, other than trousers, or for jackets and jacket-type garments excluded from heading 6202)
6212.10
6217.90.9025 (for coats and jackets, of cotton)

9820.62.20 This subheading provides for pajama bottoms and other sleepwear, as specified below, wholly assembled, or knit-to-shape in Haiti regardless of the source of the fabric, fabric components, components knit-to-shape, or yarns used to make the apparel. This provision is not subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(n)).

6208.91.30 pajama bottoms and other sleepwear for women and girls of cotton
6208.92.00 pajama bottoms and other sleepwear for women and girls of manmade fiber
6208.99.20 pajama bottoms and other sleepwear for girls of other textile material

9820.62.25 This subheading provides for an Earned Import Allowance Program. This program will be administered by the Department of Commerce. Shipments entered under this provision must have a “earned import allowance certificate” for each shipment presented to CBP for release. This provision is not subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(o)).

9820.62.30 This subheading provides for apparel wholly assembled or knit-to-shape in Haiti, where the component that determines the classification of the good is made from a short supply fabric or yarn identified under

- General Note 12(t) of the North American Free Trade Agreement,
- 9820.11.27, Section 213(b)(2)9A)(v) of the Caribbean Basin Economic Recovery Act,
- 9819.11.24, Section 112(b)(5) of the African Growth and Opportunity Act,
- 9821.11.10, clause (i)(III) or (ii) of section 204(b)(3)(B) of the Andean Trade

Promotion Drug Eradication Act,

- 9822.05.01, Dominican Republic-Central America Free Trade Agreement,
- Any other free trade agreement that is in effect at the time a preference claim under HOPE is made.

(HTS Chapter 98, Subchapter XX, U.S. Note 6(p)). This provision is not subject to a quantitative limit.

9820.65.05 This subheading provides for headwear, classified in the following HTS subheadings, wholly assembled, knit-to-shape, or formed in Haiti regardless of the source of the fabric, fabric components, components knit-to-shape, or yarns used to make the goods. This provision is not subject to a quantitative limit. (HTS Chapter 98, Subchapter XX, U.S. Note 6(m)).

6501.00.30
6501.00.60
6501.00.90
6502.00.20
6502.00.40
6502.00.60
6502.00.90
6504.00.30
6504.00.60
6504.00.90
6505.90.04
6505.90.08
6505.90.15
6505.90.20
6505.90.25
6505.90.30
6505.90.40
6505.90.50
6505.90.60
6505.90.70
6505.90.80
6505.90.90

ACTION

The modifications established by HOPE Act II set forth in this administrative notice are effective October 1, 2008. Claims for preferential tariff treatment under these modifications for qualifying textile and apparel goods entered, or withdrawn from warehouse for consumption, on or after October 1, 2008 may be made if all requirements are met as outlined in this notice.

Until CBP completes the necessary programming changes, entries for articles classified in any of HOPE provisions must be filed non-ABI. A notice will be issued when these changes have been completed.

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

INFORMATION

For additional information, please contact Import Specialist Jacqueline Sprungle at (202) 863-6517, Import Specialist Nancy Mondich at (202) 863-6524, or Textile Operations Branch Chief Robert Abels at (202) 863-6503.

/s/

Brenda B. Smith

cc: National Import Specialists