

Selected Latin American Free Trade Agreements and Other Preferential Trade Arrangements Affecting Apparel Trade

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May 9, 2011

Latin American countries have established numerous preferential agreements governing trade in the region. This summary reviews key features of the treatment under some of these agreements of qualifying apparel articles imported into Chile, Colombia, Mexico and Peru from Peru, Colombia, Ecuador and the Central American countries.

Mexico-El Salvador-Guatemala-Honduras (Mexico-Northern Triangle)

El Salvador, Guatemala, Honduras and Mexico are parties to a free trade agreement signed in June 2000. The agreement was implemented for imports into Mexico from El Salvador and Guatemala in March 2001 and for imports into Mexico from Honduras in June 2001. The full text of the agreement is available (in Spanish only) at <http://www.sice.oas.org/Trade/mextnorte/indice.asp>.

The agreement provides immediate or eventual duty-free treatment of originating products. Duties have already been eliminated on all originating apparel imported into Mexico from El Salvador, Guatemala and Honduras. Products are originating under the agreement if they are wholly obtained or produced entirely in one or more of the parties, or if they are produced in one or more of the parties and all non-originating materials satisfy applicable tariff shift, regional value content, or other rules. Apparel articles generally meet the applicable tariff shift rule if they are both cut or knit to shape and sewn or otherwise assembled in one or more of the parties from fabrics knit or woven in one or more of the parties from yarn formed in one or more of the parties. This form of origin rule is sometimes referred to as a yarn forward rule. Staple fibers, including cotton, may be of any origin. Only the component of the apparel article that gives the essential character for the tariff classification of the apparel article must satisfy the tariff shift feature of the origin rule. Fabrics and yarns used for other components, as well as non-textile components, may be of any origin.

The agreement also allows cumulation, so a producer in El Salvador, Guatemala or Honduras may satisfy the origin rules with materials from any of the other parties, including Mexico. Additionally, under a de minimis rule, the component giving essential character may contain non-originating yarns that do not meet the necessary tariff shift, as long as they do not exceed 7 percent of the total weight of the component.

The agreement was amended in 2008 at the request of the United States to allow reciprocal cumulation for U.S. materials in the same manner that the Central America Free Trade Agreement allows cumulation for Mexican materials. U.S. materials used to produce woven (but not knit) apparel in one or more of the parties are treated as though they were produced in one of the parties for purposes of the origin rules. Thus, for example, a manufacturer could produce a woven shirt in Honduras with fabric formed in the United States from yarn formed in the United States, and a Mexican importer could

import the shirt duty-free into Mexico. Reciprocal cumulation is presently subject to an annual limit of 70 million square meter equivalents (SMEs) for woven garments imported into Mexico from all of the Central American countries. The agreement provides that the annual limit may eventually be increased to 200 million SMEs for all of the Central American countries. Some categories of apparel are restricted to smaller sublimits within the annual reciprocal cumulation limit.

Mexico-Costa Rica and Mexico-Nicaragua

Mexico signed free trade agreements with Costa Rica in April 1994 and Nicaragua in December 1997. The terms are virtually identical with the terms of the Mexico-Northern Triangle free trade agreement, generally requiring yarn forward tariff shift rules and allowing 7 percent by weight de minimis non-originating yarns that do not meet the necessary tariff shift in the component giving the apparel article its essential character. There is no cumulation with other Central American countries, meaning that all origin conferring processes must be performed in Costa Rica or Mexico, in the case of the Mexico-Costa Rica free trade agreement, or in Nicaragua and Mexico, in the case of the Mexico-Nicaragua free trade agreement. The agreements were amended in 2008, however, to allow reciprocal CAFTA cumulation for woven apparel articles, so U.S. yarns and fabrics may be used in originating woven apparel produced in Costa Rica or Nicaragua, as described above in the discussion of the Mexico-Northern Triangle free trade agreement. The full texts of these agreements are available (in Spanish only) at http://www.sice.oas.org/trade/Mexcr_s/mcrind.asp and <http://www.sice.oas.org/trade/menifta/indice.asp>.

Mexico-Colombia

Mexico, Colombia and Venezuela signed a free trade agreement in June 1994. The agreement went into effect in January 1995. Venezuela withdrew from the agreement in 2006. The full text of the agreement is available (in Spanish only) at <http://www.sice.oas.org/Trade/go3/G3INDICE.ASP>.

The agreement provides for the immediate or gradual elimination of duties on originating goods classified in certain specified tariff items. Duties have been eliminated on all originating apparel imported into either of the parties from the other. Products are originating under the agreement if they are wholly obtained or produced entirely in either or both of the parties, or if they are produced in either or both of the parties and all non-originating materials satisfy applicable tariff shift, regional value content, or other rules. Apparel articles generally meet the applicable tariff shift rule if they are both cut or knit to shape and sewn or otherwise assembled in either or both of the parties from fabrics knit or woven in either or both of the parties from yarn formed in either or both of the parties. Staple fibers, including cotton, may be of any origin. Only the component of the garment that determines its classification must satisfy the tariff shift rule.

An originating apparel article may contain de minimis non-originating yarns that do not meet the necessary tariff shift, as long as such non-originating yarns used in the component of the apparel article that determines its tariff classification do not exceed 7

percent of the total weight of the component. The agreement also allows cumulation, so a producer in Colombia or Mexico may satisfy the origin rules with materials from either country. Cumulation with the United States or any other countries is not permitted.

Mexico-Peru

Mexico and Peru signed a free trade agreement in April 2011 that is not yet in force. The full text of the agreement is available (in Spanish only) at http://www.sice.oas.org/TPD/MEX_PER/FTA_Texts_06Apr2011/Index_s.asp.

Both parties will provide duty-free treatment immediately for almost all originating apparel. For some classifications of apparel, such as cotton denim trousers, duties will be reduced in equal stages for a period of five years and eliminated at the end of the fifth year.

Products will be originating under the agreement if they are wholly obtained or produced entirely in either or both of the parties, or if they are produced in either or both of the parties and all non-originating materials satisfy applicable tariff shift, regional value content, or other rules. Apparel articles will meet the applicable tariff shift rule if they are both cut or knit to shape and sewn or otherwise assembled in either or both of the parties from fabrics knit or woven in either or both of the parties from yarn formed in either or both of the parties. Staple fibers, including cotton, may be of any origin. Only the component of the apparel article that determines its classification must satisfy the tariff shift rule.

An originating apparel article may contain non-originating yarns that do not meet the necessary tariff shift, as long as such non-originating yarns used in the component of the apparel article that determines its classification do not exceed 10 percent of the total weight of the apparel article. The agreement also allows extended cumulation, meaning that producers can use materials produced in any other country with which both Peru and Mexico have free trade agreements to meet the applicable origin rules. Since both Peru and Mexico have free trade agreements with the United States, an apparel producer in either country may use U.S. yarn or fabric to meet the applicable tariff shift rule.

Until the agreement becomes effective, apparel trade between Mexico and Peru will continue to be governed by a partial preference agreement entered into by the parties in March 1987, which is set to expire at the end of 2011. It provides reduced duties, on a limited basis, for qualifying apparel articles imported into one of the parties from the other.

Chile-Central America

Chile signed a free trade agreement with Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua in October 1999. The agreement was implemented for imports into Chile from Costa Rica in February 2002, for imports into Chile from El Salvador in June 2002, for imports into Chile from Honduras in July 2008, and for imports into Chile from Guatemala in March 2010. The agreement is not yet in effect with respect to Nicaragua, as Chile and Nicaragua are still in the process of concluding bilateral negotiations

regarding implementation. The full text of the agreement is available (in Spanish only) at <http://rc.direcon.cl/acuerdo/1451>.

Pursuant to the agreement's duty reduction schedule, nearly all originating apparel articles (except certain knitted or crocheted man-made fiber tops, bodysuits and bodyshirts) are now eligible for duty-free entry into Chile from Costa Rica, El Salvador and Honduras. The majority of originating apparel articles imported into Chile from Guatemala will be eligible for duty-free treatment five years after the date of implementation of the bilateral agreement between the two countries. Most of the remaining textile and apparel products imported into Chile from Guatemala (certain panty hose, tights, stockings, socks and other hosiery) will be duty-free fifteen years after the date of implementation.

Products are originating under the agreement if they are wholly obtained in one or more of the parties, or if they are produced in one or more of the parties and all non-originating materials satisfy applicable tariff shift, regional value content, or other rules.

The tariff shift rules for apparel differ among the parties. For Guatemala and El Salvador, apparel must be cut and sewn in either or both of those countries or Chile with fabric woven or knit in either or both of those countries or Chile from yarn formed in either or both of those countries or Chile. These rules are subject to exceptions. Exceptions for Guatemala state, for example, that certain non-originating yarn may be used. Exceptions for El Salvador state, for example, that non-originating sewing thread and certain artificial and synthetic filament yarn (other than sewing thread) may be used. For Honduras, knit apparel must be cut and sewn in Honduras or Chile with fabric knit in Honduras or Chile with yarn of any origin, and woven apparel must be cut and sewn in Honduras or Chile with fabric woven in Honduras or Chile with yarn of any origin, except that cotton and man-made fiber yarns must be formed in Honduras or Chile. With respect to Nicaragua (after the bilateral agreement with Chile is finalized), apparel articles will be originating if components of any origin are sewn or assembled in Nicaragua, except that certain apparel articles, including cotton t-shirts, cannot use non-originating knitted fabrics. With respect to Costa Rica, apparel articles are originating if components of any origin are sewn or assembled in Costa Rica. Unlike apparel origin rules in many other agreements, the Chile-Central America free trade agreement requires that the entire apparel article, rather than the component determining classification, must meet any applicable tariff shift rule.

An apparel article may contain non-originating yarn or fabric that does not meet the necessary tariff shift, as long as the non-originating materials do not exceed 8 percent of the weight of the apparel article. The agreement allows cumulation, so a producer in Chile, Costa Rica, El Salvador, Guatemala, Honduras and (when the bilateral agreement with Nicaragua is finalized) Nicaragua may satisfy the origin rules with materials from any of the other parties. However, where the specific rules of origin vary among the parties with respect to a particular article, the rules of origin will be applied as in effect between the countries of the importer and exporter, treating parties that do not share the specific rule of origin in common with those countries as non-parties.

Chile-Colombia

Chile and Colombia signed a free trade agreement in November 2006. The agreement was implemented in May 2009. The agreement added to a pre-existing partial preference agreement signed by Chile and Colombia in 1993 and allows for the duty-free movement of 98 percent of bilateral commerce. The full text of the agreement is available (in Spanish only) at <http://rc.direcon.cl/acuerdo/784>.

The agreement provides immediate or gradual duty reductions to tariff items that were excluded from the previous agreement, including apparel articles. Most originating apparel articles are now duty-free upon entry into Chile. Products are originating if they are wholly obtained or produced entirely in either or both of the parties, or if they are produced in either or both of the parties using non-originating materials that comply with tariff shift, regional value content, or other rules. Apparel articles generally meet the required tariff shift rule if components of any origin are sewn or assembled in either or both of the parties. Alternatively, apparel is originating, even without the required change in tariff classification, if there is a regional value content of no less than 50 percent.

The agreement contains a general 10 percent de minimis rule; but since apparel articles may be assembled with components of any origin, the de minimis rule is unnecessary for these articles. Similarly, since apparel articles may be assembled in either country with components of any origin, there is no provision that applies origin rules only to the component of an apparel article that determines its classification.

Chile-Peru

Chile and Peru signed a free trade agreement in August 2006. The agreement was implemented in March 2009. The agreement provides immediate or eventual duty-free entry into Chile of originating products. Originating apparel articles are now duty-free upon entry into Chile. The full text of the agreement is available (in Spanish only) at http://www.sice.oas.org/Trade/CHL_PER_FTA/Texto_s.pdf.

Products are originating if they are wholly produced in Chile or Peru from materials wholly produced or obtained in Chile or Peru, or if they are produced in Chile or Peru from non-originating materials that satisfy applicable tariff shift, regional value content, or other rules. Apparel articles generally meet the applicable tariff shift rule if they are both cut or knit to shape and sewn or otherwise assembled in either or both of the parties from fabrics knit or woven in either or both of the parties from yarn formed in either or both of the parties. Man-made fiber filament yarn and all staple fibers, including cotton, used in the production of apparel articles may be of any origin. Only the component of the apparel article that gives the essential character for the tariff classification of the apparel article, and any visible lining, must satisfy the tariff shift rule.

The agreement also allows the use of foreign materials that are not commercially available in Chile or Peru, subject to the requirement that the CIF value of such materials cannot exceed 40 percent of the FOB value of the finished apparel.

The agreement allows cumulation, so a garment produced in Peru and imported into Chile may meet the tariff shift requirement with materials from Peru or Chile. The agreement does not provide a de minimis rule for apparel or other articles.

Chile-Ecuador

Chile and Ecuador signed a partial preference agreement in December 1994 and implemented the agreement in January 1995.

According to the agreement's tariff reduction schedule, 96.6 percent of products imported into either country from the other are eligible for duty-free treatment. The remaining 3.4 percent of goods are excluded from the scope of the agreement. The parties added to and strengthened the agreement in March 2008, and the resulting new provisions went into effect in January 2010. The full text of the agreement is available (in Spanish only) at http://www.sice.oas.org/Trade/chilec/CHL_ECU_65_IND_s.asp. Chile and Ecuador have also discussed the possibility of negotiating a free trade agreement.

Products are originating if they are wholly obtained or produced in either or both of the parties, or if they are produced in either or both of the parties and all non-originating materials satisfy applicable tariff shift, regional content value, or other rules. Intended specific rules of origin for textiles and apparel have not yet been finalized; but the agreement establishes a transition program for such articles. Under the transition program, non-originating materials must be transformed in the exporting party into an article with a new identity demonstrated by a new tariff classification. Simple assembly and other insubstantial operations are not acceptable for this purpose.

Under the agreement's cumulation provision, materials not only from Chile and Ecuador but also from Bolivia, Colombia and Peru may be considered as originating in a party for purposes of satisfying the applicable origin rule. For imports into Chile, an apparel article may contain non-originating yarn or fabric that does not meet the necessary tariff shift, as long as such non-originating materials do not exceed 15 percent of the transaction value for the good. For imports into Ecuador from Chile, the limitation on non-qualifying materials is 10 percent.

Chile-Mexico

Chile and Mexico signed a free trade agreement in April 1998. The free trade agreement added to a previous partial preference agreement and became effective in August 1999. The full text of the agreement is available (in Spanish only) at http://www.sice.oas.org/Trade/chmefta/Full_Text_s/CHL_Version_s.pdf.

The agreement provides immediate or eventual duty-free treatment of originating products. Originating apparel articles are already duty-free upon importation into either party. Products are originating if they are wholly obtained or produced entirely in either

or both parties, or if they are produced in either or both parties from non-originating materials that satisfy applicable tariff shift, regional value content, or other rules. Apparel articles generally meet the required tariff shift rule if components of any origin are sewn or otherwise assembled in either or both of the parties. Alternatively, apparel is originating, even without the required change in tariff classification, if there is a regional value content of no less than 50 percent when using the transaction value method or 40 percent when using the net cost method.

The agreement allows cumulation, so materials from either Mexico or Chile may be used to meet the tariff shift and regional value content rules. The agreement does not provide a de minimis rule for apparel articles.

Bolivia-Colombia-Ecuador-Peru

Bolivia, Colombia, Ecuador and Peru are members of the Andean Community. The Community has established a common market within which originating goods circulate freely. Additional information regarding the Andean Community is available at <http://www.comunidadandina.org/endex.htm>.

Andean Community Decision 416 (July 1997) establishes the rules of origin for determining whether a good originates in the Andean region. An apparel article is originating if it is wholly obtained or produced entirely in one or more of the member countries, or if it is produced using non-originating materials that undergo processing in one or more of the member countries that results in a change in tariff classification or whose CIF value do not exceed 50 percent (in the case of goods produced in Colombia and Peru) or 60 percent (in the case of goods produced in Bolivia and Ecuador) of the FOB value upon exportation of the final product.

Peru has negotiated specific rules of origin for textiles and apparel with the other Andean countries based upon tariff shift rules. Apparel articles imported by or from Peru meet the applicable tariff shift rule if they are both cut or knit to shape and sewn or otherwise assembled in one or more of the member countries from fabrics knit or woven in one or more of the member countries. Only the component of the apparel article that gives the essential character for tariff classification of the apparel article must satisfy the tariff shift rule.

The agreement does not provide a de minimis rule for apparel or other articles. The Community allows cumulation, so a producer in Bolivia, Colombia, Ecuador, or Peru may satisfy the origin rules with materials from any of the member countries.

Colombia-El Salvador-Guatemala-Honduras (Colombia-Northern Triangle)

Colombia, El Salvador, Guatemala and Honduras signed a free trade agreement in August 2007. The agreement was implemented for imports into Colombia from Guatemala in November 2009, for imports into Colombia from El Salvador in February 2010, and for imports into Colombia from Honduras in March 2010. The full text of the agreement is available (in Spanish only) at http://www.sice.oas.org/TPD/COL_Norte/Text/IndexPDF_s.asp.

Apparel articles imported from El Salvador or Guatemala into Colombia are not covered by the agreement. The agreement has eliminated duties on apparel articles originating in Honduras and imported into Colombia.

Products are originating under the agreement if they are wholly obtained or produced entirely in the territory of one or more of the parties, or if they are produced in one or more of the parties and all non-originating materials satisfy applicable tariff shift, regional value content, or other rules. Apparel articles generally meet the applicable tariff shift rule if they are both cut or knit to shape and sewn or otherwise assembled in Colombia or Honduras from fabrics knit or woven in either or both of those countries from yarn formed in either or both of those countries. Staple fibers, including cotton, may be of any origin. Certain artificial and synthetic filament yarns (other than sewing thread) may also be of any origin. Only the component of the apparel article that determines its classification must satisfy the tariff shift rule.

The agreement provides cumulation, so materials from Colombia and Honduras may be used to meet the applicable origin rule. The agreement also allows certain materials originating in the United States or Mexico to be treated as originating in Honduras or Colombia when used to produce apparel articles traded between Honduras and Colombia. These components include, among others, certain cotton yarns and certain yarns of synthetic and artificial staple fibers. Additionally, certain types of nylon yarn are treated as originating in Honduras or Colombia if the yarn originates in Canada, Israel, Mexico, or the United States.

The agreement also includes a de minimis rule for apparel articles, under which the component determining classification of the apparel article may contain non-originating yarns that do not meet the necessary tariff shift as long as they do not exceed 10 percent of the weight of the apparel article.

Additional Comments

The various free trade agreements and programs existing among Latin American states offer opportunities to producers and importers in the region to compete more effectively with apparel imports from Asia and other foreign production venues. Significantly, while these arrangements are intended primarily to benefit producers and importers in the region, some of the tariff shift, cumulation and tolerance provisions allow the use of yarns, fabrics and other materials from the United States.

The foregoing only summarizes the highlights of the various arrangements. Participation is subject to certification and recordkeeping rules designed to confirm compliance with origin rules and other requirements. Producers and importers are cautioned to review all of the rules applicable to their specific apparel articles in affected countries.