

4. Tuna prepared or preserved in any manner in airtight containers, except as provided in paragraph (4).

The effect of new paragraphs (1) and (2) is to divide the former section 204(b) list of eight types of products excluded from ATPA duty-free treatment into two groups of four each. The four types of products covered by paragraph (1) would no longer be excluded from ATPA duty-free treatment but rather would be eligible for that treatment, provided that the President makes the appropriate negative import sensitivity determination. For these products (which include the handbags, luggage, flat goods, work gloves, and leather wearing apparel to which reduced duty rates previously applied under removed section 204(c)), the country of origin and value-content and related requirements under section 204(a) of the ATPA and the regulations thereunder would apply. The four types of products covered by paragraph (2) would remain as exclusions from duty-free treatment except as otherwise provided in paragraph (3) in the case of certain apparel and textile articles and paragraph (4) in the case of certain tuna products, and the exclusion in the case of sugar and sugar products has been reworded to refer to tariff-rate quota applicability rather than HTSUS classification. Paragraphs (3) through (6) of amended section 204(b), as discussed below, are entirely new provisions.

Paragraph (3): Preferential Treatment of Textile Articles

Paragraph (3) of amended section 204(b) is headed "apparel articles and certain textile articles." Paragraph (3)(A) provides that apparel articles that are imported directly into the customs territory of the United States from an ATPDEA beneficiary country shall enter the United States free of duty and free of any quantitative restrictions, limitations, or consultation levels, but only if those articles are described in subparagraph (B), which states that the apparel articles referred to in subparagraph (A) are the following:

1. Apparel articles sewn or otherwise assembled in one or more ATPDEA beneficiary countries, or the United States, or both, exclusively from any one or any combination of the following [clause (i)]:

a. Fabrics or fabric components wholly formed, or components knit-to-shape, in the United States, from yarns wholly formed in the United States or one or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed in the

United States). Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are knit fabrics, is carried out in the United States. Apparel articles shall qualify under this subclause only if all dyeing, printing, and finishing of the fabrics from which the articles are assembled, if the fabrics are woven fabrics, is carried out in the United States [subclause (I)];

b. Fabrics or fabric components formed or components knit-to-shape, in one or more ATPDEA beneficiary countries, from yarns wholly formed in one or more ATPDEA beneficiary countries, if those fabrics (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed in one or more ATPDEA beneficiary countries) or components are in chief value of llama, alpaca, or vicuña [subclause (II)];

c. Fabrics or yarns, to the extent that apparel articles of those 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) [subclause (III)]; and

d. Fabrics or yarns, to the extent that the President has determined that the fabrics or yarns cannot be supplied by the domestic industry in commercial quantities in a timely manner and has proclaimed the treatment provided under clause (i)(III) [clause (ii)];

2. Apparel articles sewn or otherwise assembled in one or more ATPDEA beneficiary countries from fabrics or from fabric components formed or from components knit-to-shape in one or more ATPDEA beneficiary countries from yarns wholly formed in the United States or one or more ATPDEA beneficiary countries (including fabrics not formed from yarns, if those fabrics are classifiable under heading 5602 or 5603 of the HTSUS and are formed in one or more ATPDEA beneficiary countries), whether or not the apparel articles are also made from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i) (unless the apparel articles are made exclusively from any of the fabrics, fabric components formed, or components knit-to-shape described in clause (i)). For these articles, preferential treatment starts on October 1, 2002, and extends for each of the four succeeding 1-year periods, subject to the application of annual quantitative limits expressed in square meter equivalents and with an equal percentage increase

in the limit for each succeeding year [clause (iii)];

3. A handloomed, handmade, or folklore textile or apparel article of an ATPDEA beneficiary country that the President and representatives of the ATPDEA beneficiary country concerned mutually agree upon as being a handloomed, handmade, or folklore good of a kind described in section 2.3(a), (b), or (c) or Appendix 3.1.B.11 of Annex 300-B of the NAFTA and that is certified as such by the competent authority of the beneficiary country [clause (iv)]; and

4. Brassieres classifiable under subheading 6212.10 of the HTSUS, if both cut and sewn or otherwise assembled in the United States, or one or more ATPDEA beneficiary countries, or both, but excluding articles entered under clause (i), (ii), (iii), or (iv) [clause (v)(I)]. However, during each of four 1-year periods starting on October 1, 2003, the articles in question are eligible for preferential treatment under paragraph (3) only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of a producer or an entity controlling production that are entered and eligible under clause (v)(I) during the preceding 1-year period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under clause (v)(I) during the preceding 1-year period [clause (v)(II)]; the 75 percent standard rises to 85 percent for a producer or entity controlling production whose articles are found by Customs to have not met the clause (v)(II) 75 percent standard in the preceding year [clause (v)(III)].

In addition to the articles described above, paragraph (3)(B) provides for preferential treatment of the following non-apparel textile articles:

1. Textile luggage assembled in an ATPDEA beneficiary country from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States, that is entered under subheading 9802.00.80 of the HTSUS [clause (vii)(I)]; and

2. Textile luggage assembled from fabric cut in an ATPDEA beneficiary country from fabric wholly formed in the United States from yarns wholly formed in the United States [clause (vii)(II)].

Clause (vi) under paragraph (3) sets forth special rules that apply for purposes of determining the eligibility of articles for preferential treatment