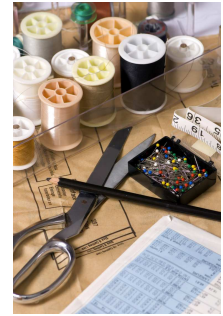

❖ SPC&B Textile Report ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

May 26, 2010

I. Bipartisan House Group Introduces Textile Enforcement and Security Act of 2010; Increased Verification of Origin and Preferential Duty Claims Will Result

II. President Obama Signs HELP Act for Haiti



I. Representative Larry Kissell (D-NC), and a bipartisan group of 23 co-sponsors, introduced into the House yesterday H.R. 5393, the Textile Enforcement and Security Act of 2010 (“TESA”). The bill was introduced in response to a perceived surge in illegal trafficking in the CAFTA region. In a statement about the bill, Rep. John Spratt (D-SC), co-chairman of the Congressional Textile Caucus and one of the bill’s co-sponsors, stated that “high levels of fraud and illegal imports continue to plague the American textile industry...TESA will help tighten enforcement...I am pleased to support it.”

The bill has many components, including: funding of investigations and providing rewards for information regarding unlawfully imported textile and apparel goods; creation of an electronic verification program to track yarn and fabric inputs in free trade agreements; hiring of additional Import Specialists trained to handle textiles; providing Customs with expanded authority to seize goods imported from trade preference areas; increasing bond requirements; and establishing a nonresident importer program requiring, among other things, identification/registration of a registered agent in the state of the port in which goods are entered.

More significantly, however, the bill presages increased enforcement of duty preference claims, particularly with respect to shipments from the CAFTA, NAFTA, and Andean regions, and importers can anticipate a significant increase in Import Specialists’ verification requests. Indeed, Customs has already increased its enforcement efforts in this area in anticipation of such a bill. As a result, any importer making a claim for a duty preference must have policies and procedures in place to confirm the accuracy and completeness of the following:

1. the certificate of origin;
2. the origin of the yarns and fabrics;
3. evidence of cutting and sewing in the form of production records; and
4. conformity of fabrics with short supply designations.

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Reliance on manufacturers' representations is not enough; the importer should independently confirm the accuracy of all information.

We stand ready to assist you in the confirmation procedure implementation, as well as provide you with origin verification checklists to avoid future problems. If you are interested, please contact Gail Cumins, Donna Shira, or Alli Baron at gcumins@spcblaw.com, dshira@spcblaw.com, and abaron@spcblaw.com, respectively, or call us at (212) 425-0055.

II. President Obama signed the Haiti Economic Lift Program ("HELP") Act into law Monday. The HELP Act extends the U.S.-Caribbean Basin Trade Partnership Act ("CBTPA") preference program for another 10 years, through September 2020. CBTPA's trade preference levels for certain knit apparel and t-shirts are also extended through that date, along with the preference provision for certain brassieres with U.S. fabric content.

Additionally, the Haitian Hemispheric Opportunity through Partnership Encouragement Act ("HOPE") is extended until September 2020 as well. HOPE's woven and knit apparel tariff preference levels are similarly extended. The HELP Act added a new section to the Haiti HOPE Act, stating that any apparel items in specified tariff numbers that are wholly assembled or knit to shape in Haiti from any combination of fabrics, fabric components, or yarns and that are imported to the U.S. directly from Haiti or the Dominican Republic are duty-free, without regard to the source of the fabric, fabric components, or yarns from which the item is made. The specified provisions cover items including wool, cotton, and man-made coats, dresses, knit shirts/blouses, skirts, robes, and nightwear. Certain other made-up textile articles are also included.

The HELP Act also amends the Haiti HOPE law to make the current Earned Import Allowance program for certain Haiti apparel a '2 for 1' program. Specifically, it provides one square meter equivalent ("SME") credit to a qualifying apparel producer for every two SMEs of qualifying woven or knit fabric that the qualifying apparel producer can demonstrate it purchased for manufacture of apparel wholly assembled or knit to shape in Haiti. Haiti's program was previously a '3 for 1' program, with one SME credit issued for every three SMEs used. The Act also made certain changes to Haiti HOPE's value added rule and provided for the increase of certain trade preference levels if they are highly utilized. The bill additionally requires CBP to provide support services to Haitian customs authorities.

Please contact us if you are interested in learning more about any of the HELP Act provisions.
