

**Draft as of January 19, 2007**  
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**Section G: Textiles and Apparel**

**[NOTE: Article numbering will be adjusted when Section G is merged into the rest of Chapter 3.]**

**Article 3.1: Customs Cooperation**

1. The customs authorities of the Parties shall cooperate for purposes of:
  - (a) enforcing or assisting in the enforcement of their respective laws, regulations, and procedures affecting trade in textile or apparel goods;
  - (b) ensuring the accuracy of claims of origin for textile or apparel goods; and
  - (c) deterring circumvention of laws, regulations, and procedures of either Party or international agreements affecting trade in textile or apparel goods.
  
2. In furtherance of paragraph 1, each Party shall maintain or adopt laws that:
  - (a) authorize its officials to take swift action to deter circumvention and to carry out obligations under this Chapter relating to customs cooperation and information sharing; and
  - (b) establish criminal penalties, and civil or administrative penalties, that effectively deter engaging in, attempting to engage in, or facilitating activities related to circumvention.
  
3. On request of a Party, the other Party shall provide, consistent with its laws, regulations, and procedures, production, trade, and transit documents and other information necessary to determine:
  - (a) that an enterprise has made an accurate claim of origin for a textile or apparel good; or
  - (b) that an enterprise is complying with applicable customs laws, regulations, and procedures regarding trade in textile and apparel goods, including:
    - (i) laws, regulations, and procedures that the exporting Party adopts and maintains pursuant to this Agreement; and
    - (ii) laws, regulations, and procedures of the importing Party and the exporting Party implementing other international agreements regarding trade in textile and apparel goods.

Where the providing Party designates the information as confidential, Article 5.6 **[Confidentiality]** shall apply.

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4. (a) On the written request of an importing Party, the exporting Party shall conduct a verification for purposes of enabling the importing Party to make the determination described in 3(a) or (b), regardless of whether an importer claims preferential tariff treatment for the textile or apparel good for which a claim of origin has been made.
- (b) A request under subparagraph (a) shall include specific information regarding the reason the importing Party is requesting the verification and the determination the importing Party is seeking to make.
- (c) The exporting Party may conduct a verification of exporting enterprises within its territory on its own initiative.
5. The exporting Party may allow the importing Party to participate in a verification, including through a site visit, conducted under paragraph 4. If an importing Party believes it is necessary to participate in a site visit, the competent authority of the importing Party shall provide a written request to the competent authority of the exporting Party. Site visits shall be conducted in accordance with the laws, regulations, and procedures of the exporting Party.<sup>1</sup> If the exporting Party does not consent to allow the participation of the importing Party, the importing Party may take appropriate action which may include denial of preferential treatment to the type of goods of the enterprise that would have been the subject of verification.
6. (a) A written request to participate in a site visit shall be provided not less than fourteen days before the proposed dates of the site visit. The request shall identify the number of enterprises to be visited, the proposed dates of the visit, and the reason for the visit.
- (b) The competent authority of the importing Party may not inform any person, other than the responsible officials of the competent authority of the exporting Party, of a request under subparagraph (a) or its contents. Neither the responsible officials of the competent authority of the exporting Party nor any other person in its territory may notify an enterprise in advance of a visit. The responsible officials of the competent authority of the exporting Party or, if the exporting Party requests or authorizes the importing Party to undertake such a verification, the importing Party shall seek permission to conduct a site visit from a responsible person at the enterprise at the time of the visit.

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<sup>1</sup> For greater certainty, all visits conducted under this Article shall be conducted under the authority of the exporting Party. The participation of the importing Party at the visit shall be limited to the purposes stated in this article, and shall not be deemed to confer any authority to such officials over persons or enterprises located within the territory of the exporting Party.

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- (c) If the responsible person at an enterprise proposed to be visited denies permission for the site visit to occur:<sup>2</sup>
- (i) the visit shall not occur;
  - (ii) the exporting Party shall not issue any certificates, visas, or export licenses that may be required to accompany textile or apparel goods that the enterprise produces or exports when such goods are exported to the importing Party, until the exporting Party receives information sufficient to enable it to make the determination in paragraph 3(a) or (b); and
  - (iii) the importing Party may deny entry of textile or apparel goods produced or exported by the enterprise, until it receives information sufficient to enable it to make the determination in 3(a) or (b).
- (d) On completion of a site visit, the importing Party and exporting Party shall discuss their findings and the importing Party shall subsequently provide to the exporting Party a written report of the results of the visit. The Exporting Party shall have the opportunity to respond to the report provided by the importing Party. The written report shall include:
- (i) the name of the enterprise visited;
  - (ii) for each shipment checked, information discovered relating to circumvention;
  - (iii) observations made at the enterprise relating to circumvention; and
  - (iv) an assessment of whether the enterprise's production records and other documents support its claims of origin for:
    - (A) a textile or apparel good subject to a verification conducted under paragraph 4(a) for the purpose of enabling it to make the determination in paragraph 3(a); or
    - (B) in the case of a verification conducted under paragraph 4(a) for the purpose of enabling it to make the determination in paragraph 3(b), any textile or apparel good exported or produced by the enterprise.

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<sup>2</sup> Permission for a site visit shall be deemed to have been denied if the enterprise does not allow the responsible officials of the competent authorities of the importing or exporting Party access to the enterprise's premises, including its production and storage areas and any other facilities, or to any production records relating to textile or apparel goods that have been exported to the territory of the importing Party, the enterprise's production capabilities in general, the number of persons the enterprise employs, or any other records or information relevant to making the determination in paragraph 3(a) or (b).

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7. (a) (i) During a verification conducted under paragraph 4(a), if there is insufficient information to support a claim for preferential tariff treatment, the importing Party may take appropriate action, which may include suspending the application of such treatment to:
- (A) in the case of a verification conducted under paragraph 4(a) for the purpose of enabling it to make the determination in paragraph 3(a), the textile or apparel good for which a claim for preferential tariff treatment has been made; and
  - (B) in the case of a verification conducted under paragraph 4(a) for the purpose of enabling it to make the determination in paragraph 3(b), any textile or apparel good exported or produced by the enterprise subject to that verification for which a claim for preferential tariff treatment has been made.
- (ii) On completion of a verification conducted under paragraph 4(a), if there is insufficient information to support a claim for preferential tariff treatment, the importing Party may take appropriate action, which may include denying the application of such treatment to any textile or apparel good described in clauses (i)(A) and (B).
- (iii) During or on completion of a verification conducted under paragraph 4(a), if the importing Party discovers that an enterprise has provided incorrect information to support a claim for preferential tariff treatment, the importing Party may take appropriate action, which may include denying the application of such treatment to any textile or apparel good described in clauses (i)(A) and (B).
- (b) (i) During a verification conducted under paragraph 4(a), if there is insufficient information to determine the country of origin, the importing Party may take appropriate action, which may include detention of any textile or apparel good exported or produced by the enterprise subject to the verification.
- (ii) On completion of a verification conducted under paragraph 4(a), if there is insufficient information to determine the country of origin, the importing Party may take appropriate action, which may include denying entry to any textile or apparel good exported or produced by the enterprise subject to the verification.
- (iii) During or on completion of a verification conducted under paragraph 4(a), if the importing Party discovers that an enterprise has provided incorrect information as to the country of origin, the importing Party may take appropriate action, which may include denying entry to any textile or

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apparel good exported or produced by the enterprise subject to the verification.

- (c) The importing Party may continue to take appropriate action under any provision of this paragraph only until it receives information sufficient to enable it to make the determination in paragraph 3(a) or (b), as the case may be.

8. Not later than 45 days after the exporting Party completes a verification on behalf of the importing Party under paragraph 4(a), the exporting Party shall provide the importing Party a written report on the results of a verification. The report shall include all documents and facts supporting any conclusion that the exporting Party reaches. After receiving the report, the importing Party shall notify the exporting Party of any action it will take under 7(a)(ii) or (iii) or (b)(ii) or (iii), taking into account the information provided in the report.

- 9. (a) A Party may publish the name of an enterprise that:
  - (i) the Party has determined administratively to be engaged in intentional circumvention of laws, regulations, and procedures of any Party or international agreements affecting trade in textile and apparel goods; or
  - (ii) has failed to demonstrate that it produces, or is capable of producing, the textile or apparel goods subject to a verification conducted under paragraph 4(a).
- (b) Any enterprise whose name has been included in a list published under paragraph (a) may petition the importing Party to be removed from such list. If the importing Party finds that such enterprise has not committed any violations described in paragraph (a) for a period of not less than three years after the date on which the enterprise's name was so published, the importing Party shall remove such enterprise from the list as of the next publication of the list.
- (c) The publication of the name of an enterprise shall not alone prohibit that enterprise from exporting textile and apparel goods to the other Party.

**Article 3.2: Monitoring**

1. The eligible Party shall establish and maintain programs to monitor the importation, production, exportation, movement in transit, and processing or manipulation in any free trade zone, foreign trade zone, or export processing zone of textile or apparel goods, as specified in this Article. These programs shall provide the information necessary for each Party to ascertain whether a violation of its laws relating to trade in textile or apparel goods or an act of circumvention is occurring or has occurred.

2. The eligible Party shall establish and maintain a program to verify that textile or apparel goods that a person claims as originating goods or marks as products of the eligible Party and that are exported to the other Party are produced by the eligible Party's enterprises. This

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program shall include on-site government inspections of such enterprises without prior notice to verify that they comply with laws of the eligible Party relating to trade in textile or apparel goods and that their production of and capability to produce such goods are consistent with claims regarding the origin of such goods.

3. For each shipment of textile or apparel goods that an enterprise produces for exportation to the other Party or exports to the other Party, the eligible Party shall require the enterprise to maintain in the eligible Party records relating to such production or exportation for a period of five years from the date on which such records are created. The eligible Party also shall require each enterprise that produces textile or apparel goods to maintain in the eligible Party records relating to its production capabilities in general, the number of persons it employs, and any other records and information sufficient to allow officials of each Party to verify the enterprise's production and exportation of textile or apparel goods, including:

- (a) records demonstrating that the materials used to produce or assemble textile or apparel goods were obtained or produced by the enterprise and were available for production, such as:
  - (i) bills of lading from the persons that supplied the materials;
  - (ii) customs clearance records or equivalent records if the materials were imported into the eligible Party; and
  - (iii) transaction records, including:
    - (A) commercial invoices, if the materials were purchased;
    - (B) records documenting transfers of funds;
    - (C) mill certificates if the materials were spun, extruded (for yarns) or woven, knitted or formed by any other fabric forming process (for example, tufting) by an enterprise of the eligible Party;
    - (D) production records if the enterprise produced the materials; and
    - (E) purchase orders if the materials were imported from a foreign producer, broker, trader, or other intermediary;
- (b) with respect to textile or apparel goods the enterprise has produced that are claimed as originating goods or marked as products of the eligible Party, production records that substantiate the claim or marking, such as:
  - (i) cutting records for products assembled from cut components;
  - (ii) assembly or production records that the production manager creates on the factory floor that document daily production, including workers' daily

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production records, wage records, production steps, and sewing tickets;  
and

- (iii) employee time cards, payment records, or other documentation showing which employees were working, how long they worked, and what work they performed during the period the goods were produced; and
- (c) with respect to textile and apparel goods that a subcontractor has produced in whole or in part for the enterprise and that are claimed as originating goods or marked as products of the eligible Party, records that substantiate the claim, such as:
  - (i) cutting records for products assembled from cut components;
  - (ii) if partially assembled by the subcontractor, production records documenting the partial assembly;
  - (iii) bills of lading; and
  - (iv) transfer documents to the shipper or primary contractor and proof of payment by the shipper or primary contractor for the work done.

4. The eligible Party shall establish and maintain a program to ensure that textile or apparel goods that are imported into or exported from the eligible Party or that are processed or manipulated in any free trade zone, foreign trade zone or export processing zone in the eligible Party en route to the other Party are examined to ascertain prima facie that they are marked with the country of origin in accordance with the documents accompanying the goods and that such documents accurately describe the goods.

- (a) This program shall provide for:
  - (i) immediate referral by the eligible Party's officials of suspected violations of either Party's laws relating to circumvention to the competent authorities; and
  - (ii) issuance by the eligible Party to the other Party of a written report of each violation relating to circumvention, including a failure to maintain or produce records, and any other act of circumvention involving textile or apparel goods destined for the other Party, occurring in the territory of the eligible Party and resulting in enforcement action by the eligible Party.
- (b) The report described in subparagraph (ii) shall state the enforcement action taken and the ultimate resolution of the matter. Where the providing Party designates the information as confidential, Article 5.6 [**Confidentiality**] shall apply.

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- (c) Notwithstanding the foregoing, a Party may publish the name of an enterprise that it has determined administratively is illegally transshipping.
- (d) Any enterprise whose name has been included in a list published under paragraph (c) may petition the importing Party to be removed from such list. If the importing Party finds that such enterprise has not committed any violations described in paragraph (c) for a period of not less than three years after the date on which the enterprise's name was so published, the importing Party shall remove such enterprise from the list as of the next publication of the list.
- (e) The publication of the name of an enterprise shall not alone prohibit that enterprise from exporting textile and apparel goods to the other Party.

5. If the eligible Party discovers conduct by an enterprise that it suspects is a violation of either Party's laws relating to circumvention, and the conduct has not been noted in a report under Article 3.2.4, the eligible Party shall report the conduct to the other Party not later than 14 days after the discovery. The eligible Party shall also immediately initiate a detailed review of all textile or apparel goods that the enterprise has produced for exportation to the other Party or exported to the other Party during the six months preceding the date that the eligible Party discovered the conduct. The eligible Party shall prepare a report describing the results of that review and shall transmit the report to the other Party no later than 60 days after it provides the report called for under the first sentence of this paragraph. The Parties may agree, in light of the facts of a particular review, to extend this 60 day period.

6. A report describing the results of a review of textile or apparel goods conducted pursuant to paragraph 5 shall include the following:

- (a) the name and address of the enterprise investigated;
- (b) the nature of the suspected violation (for example, failure to maintain adequate production records, or making false statements relating to country of origin or production); or
- (c) a brief description of the evidence of a violation and any penalty imposed or other action taken;
- (d) the identification numbers of the invoices, or certificates if required, and date of export for each shipment exported to the other Party during the six months before the date on which the conduct was discovered;
- (e) the product category, description, and quantity of the goods included in the exportations to the other Party; and
- (f) purchase orders, bills of lading, contracts, payment records, invoices, and other records indicating the origin of the goods included in the exportations to the other



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Party, and information identifying the importer of those goods in the importing Party, if the eligible Party possesses such information.

7. If the eligible Party finds that an enterprise has engaged in circumvention pursuant to paragraph 5, it shall take effective enforcement action, which may include denying permission for an appropriate period for textile or apparel goods that the enterprise produces or exports to the other Party.

8. The eligible Party shall maintain and supply profile information to the other Party regarding its enterprises, and shall update the information annually. This information shall include the:

- (a) name of the enterprise;
- (b) address of the enterprise and locations of its facilities in the eligible Party;
- (c) telephone number, fax number, and e-mail address;
- (d) statement of the nationality of the owners, if such information is available, or of the directors or corporate officers;
- (e) names of the owners, if such information is available, or directors and their respective positions within the enterprise;
- (f) number of workers, skill sets (occupations), wages, hours of work, and minimum age for employment;
- (g) number and type of machines the enterprise uses to produce textile or apparel goods;
- (h) production capacity of the enterprise and identification of textile or apparel goods the enterprise produces; and
- (i) names of customers in the other Party.

Such profiles shall be provided by the competent authority of the eligible Party to the competent authority of the other Party within three months of the effective date of the terms of this Agreement relating to textiles and apparel and shall be deemed confidential in accordance with Article 5.6 [**Confidentiality**].

**Article 3.3: Consultations on Customs Cooperation and Monitoring**

1. On the written request of a Party, the Parties shall enter into consultations to resolve any technical or interpretive difficulties that may arise, or to discuss ways to improve customs cooperation, under Articles 1 and 2. Unless the Parties otherwise agree, consultations shall begin within 30 days after delivery of the request, and conclude within 90 days after delivery.

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2. A Party may request technical or other assistance from the other Party in implementing this Section. The Party receiving such a request shall make every effort to respond favorably and promptly to it.

**Article 3.4: Duty-Free Treatment for Certain Goods**

1. An importing and an exporting Party may identify at any time particular textile or apparel goods of the exporting Party that they mutually agree fall within:

- (a) hand-loomed fabrics of a cottage industry;
- (b) hand-made cottage industry goods made of such hand-loomed fabrics; or
- (c) traditional folklore handicraft goods; or
- (d) textile and apparel goods which substantially incorporate one or more molas.

2. The importing Party shall grant duty-free treatment to goods so identified, if certified by the competent authority of the exporting Party.

**Article 3.5: Textile Safeguard Measures**

1. Subject to the following paragraphs, and during the transition period only, if, as a result of the reduction or elimination of a duty provided for in this Agreement, a textile or apparel good of one Party is being imported into the territory of the other Party in such increased quantities, in absolute terms or relative to the domestic market for that good, and under such conditions as to cause serious damage, or actual threat thereof, to a domestic industry producing a like or directly competitive good, the importing Party may, to the extent necessary to prevent or remedy such damage and to facilitate adjustment, apply a textile safeguard measure to that good, consisting of an increase in the rate of duty on the good to a level not to exceed the lesser of:

- (a) the most-favored-nation (MFN) applied rate of duty in effect at the time the measure is applied; or
- (b) the MFN applied rate of duty in effect on the date of entry into force of this Agreement.

2. In determining serious damage, or actual threat thereof, the importing Party:

- (a) shall examine the effect of increased imports of the good of the other Party on the particular industry, as reflected in changes in such relevant economic variables as output, productivity, utilization of capacity, inventories, market share, exports, wages, employment, domestic prices, profits, and investment, none of which, either alone or combined with other factors, shall necessarily be decisive; and

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- (b) shall not consider changes in technology or consumer preference as factors supporting a determination of serious damage or actual threat thereof.
3. The importing Party may apply a textile safeguard measure only following an investigation by its competent authority.
4. If, on the basis of the results of the investigation under paragraph 3, the importing Party intends to apply a textile safeguard measure, the importing Party shall promptly provide written notice to the exporting Party of its intent to apply a textile safeguard measure, and on request shall enter into consultations with that Party. The importing Party and the exporting Party shall begin the consultations without delay and shall complete them within 60 days of the date of receipt of the request. The importing Party shall make a decision on whether to apply a safeguard measure within 30 days of completion of the consultations.
5. The following conditions and limitations apply to any textile safeguard measure:
- (a) no Party may maintain a textile safeguard measure for a period exceeding three years;
  - (b) no Party may apply a textile safeguard measure to the same good of the other Party more than once;
  - (c) on termination of the textile safeguard measure, the Party applying the measure shall apply the rate of duty set out in its Schedule to Annex 3.3 [**Tariff Elimination**], as if the measure had never been applied; and
  - (d) no Party may maintain a textile safeguard measure beyond the transition period.
6. The Party applying a textile safeguard measure shall provide to the Party against whose good the measure is taken mutually agreed trade liberalizing compensation in the form of concessions having substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the textile safeguard measure. Such concessions shall be limited to textile or apparel goods, unless the consulting Parties otherwise agree. If the Parties are unable to agree on compensation within 30 days of application of a textile safeguard measure, the Party against whose good the measure is taken may take tariff action having trade effects substantially equivalent to the trade effects of the textile safeguard measure. Such tariff action may be taken against any goods of the Party applying the measure. The Party taking the tariff action shall apply such action only for the minimum period necessary to achieve the substantially equivalent trade effects. The importing Party's obligation to provide trade compensation and the exporting Party's right to take tariff action shall terminate when the textile safeguard measure terminates.
7. (a) Each Party retains its rights and obligations under Article XIX of the GATT 1994 and the Safeguards Agreement.

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- (b) No Party may apply, with respect to the same good at the same time, a textile safeguard measure and:
  - (i) a safeguard measure under Chapter Eight; or
  - (ii) a measure under Article XIX of the GATT 1994 and the Safeguards Agreement.

**Article 3.6: Rules of Origin and Related Matters**

*Consultations on Rules of Origin*

1. On request of a Party, the Parties shall, within 30 days after the request is delivered, consult on whether the rules of origin applicable to a particular textile or apparel good should be modified.
2. In the consultations referred to in paragraph 1, each Party shall consider all data that a Party presents demonstrating substantial production in its territory of the good. The Parties shall consider that there is substantial production if a Party demonstrates that its domestic producers are capable of supplying commercial quantities of the good in a timely manner.
3. The Parties shall endeavor to conclude the consultations within 90 days after delivery of the request. If the Parties reach an agreement to modify a rule of origin for a particular good, the agreement shall supersede that rule of origin when approved by the Parties in accordance with Article 19.1.3(b) [**The Free Trade Commission**].

*Fabrics, Yarns, and Fibers Not Available in Commercial Quantities*

4. (a) At the request of an interested entity, the United States shall, within 30 business days of receiving the request, add a fabric, fiber, or yarn in an unrestricted or restricted quantity to the list in Annex    [**Short Supply**], if the United States determines, based on information supplied by interested entities, that the fabric, fiber, or yarn is not available in commercial quantities in a timely manner in the territory of either Party, or if no interested entity objects to the request.
- (b) If there is insufficient information to make the determination in subparagraph (a), the United States may extend the period within which it must make that determination by no more than 14 business days, in order to meet with interested entities to substantiate the information.
- (c) If the United States does not make the determination in subparagraph (a) within 15 business days of the expiration of the period within which it must make that determination, as specified in subparagraph (a) or (b), the United States shall grant the request.

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- (d) The United States may, within six months after adding a restricted quantity of a fabric, fiber, or yarn to the list in Annex \_\_ [Short Supply] pursuant to subparagraph (a), eliminate the restriction.
- (e) If the United States determines before the date of entry into force of this Agreement that any fabrics, fibers, or yarns not listed in Annex \_\_ [Short Supply] are not available in commercial quantities in the United States pursuant to section 112(b)(5)(B) of the *African Growth and Opportunity Act* (19 U.S.C. 3721(b)), section 204(b)(3)(B)(ii) of the *Andean Trade Preference Act* (19 U.S.C. 3203(b)(3)(B)(ii)), or section 213(b)(2)(A)(v)(II) of the *Caribbean Basin Economic Recovery Act* (19 U.S.C. 2703(b)(2)(A)(v)(II)), or pursuant to a permanent designation in a free trade agreement of the United States, the United States shall add such fabrics, fibers, or yarns in an unrestricted quantity to the list in Annex \_\_ [Short Supply]

5. At the request of an interested entity made no earlier than six months after the United States has added a fabric, yarn, or fiber in an unrestricted quantity to Annex \_\_ [Short Supply] pursuant to paragraph 4, the United States may, within 30 business days after it receives the request:

- (a) delete the fabric, yarn, or fiber from the list in Annex \_\_ [Short Supply]; or
- (b) introduce a restriction on the quantity of the fabric, yarn, or fiber added to Annex \_\_ [Short Supply],

if the United States determines, based on the information supplied by interested entities, that the fabric, yarn, or fiber is available in commercial quantities in a timely manner in the territory of any Party. Such deletion or restriction shall not take effect until six months after the United States publishes its determination.

6. Promptly after the date of entry into force of this Agreement, the United States shall publish the procedures it will follow in considering requests under paragraphs 4 and 5.

*De Minimis*

7. A textile or apparel good that is not an originating good because certain fabrics, fibers, or yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4.1 [Specific Rules of Origin], shall nonetheless be considered to be an originating good if the total weight of all such fabrics, fibers, or yarns in that component is not more than ten percent of the total weight of that component.<sup>3</sup>

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<sup>3</sup> For greater certainty, when the good is a fiber, yarn, or fabric, the “component of the good that determines the tariff classification of the good” is all of the fibers in the yarn, fabric, or group of fibers.

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8. Notwithstanding paragraph 7, a good containing elastomeric yarns<sup>4</sup> in the component of the good that determines the tariff classification of the good shall originate only if such yarns are wholly formed in the territory of a Party.<sup>5</sup>

*Treatment of Sets*

9. Notwithstanding the specific rules of origin in Annex 4.1 [**Specific Rules of Origin**], textile or apparel goods classifiable as goods put up in sets for retail sale as provided for in General Rule of Interpretation 3 of the Harmonized System, shall not be regarded as originating goods unless each of the products in the set is an originating good or the total value of the non-originating goods in the set does not exceed ten percent of the adjusted value of the set.

*Treatment of Nylon Filament Yarn*

10. A textile or apparel good that is not an originating good because certain yarns used in the production of the component of the good that determines the tariff classification of the good do not undergo an applicable change in tariff classification set out in Annex 4.1 [**Specific Rules of Origin**], shall nonetheless be considered to be an originating good if the yarns are those described in section 204(b)(3)(B)(vi)(IV) of the *Andean Trade Preference Act* (19 U.S.C. 3203(b)(3)(B)(vi)(IV)).

**Article 3.7: Most-Favored-Nation Rates of Duty on Certain Goods**

For a textile or apparel good provided for in chapters 61 through 63 of the Harmonized System that is not an originating good, the United States shall apply its MFN rate of duty only on the value of the assembled good minus the value of fabrics formed in the United States, components knit-to-shape in the United States, and any other materials of U.S. origin used in the production of such a good, provided that the good is sewn or otherwise assembled in the territory of Panama with thread wholly formed in the United States, from fabrics wholly formed in the United States and cut in one or both of the Parties, or from components knit-to-shape in the United States, or both.<sup>6</sup>

**Article 3.8: Duty-Free Treatment for Certain Guayabera-Style Dresses and Shirts**

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<sup>4</sup> For greater certainty, the term “elastomeric yarns” does not include latex.

<sup>5</sup> For purposes of this paragraph, “wholly formed” means that all the production processes and finishing operations, starting with the extrusion of filaments, strips, film, or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into yarn, or both, and ending with a finished yarn or plied yarn, took place in the territory of a Party.

<sup>6</sup> For purposes of this paragraph, “wholly formed,” when used in reference to fabrics, means that all the production processes and finishing operations, starting with the weaving, knitting, needling, tufting, felting, entangling, or other process, and ending with a fabric ready for cutting or assembly without further processing, took place in the United States. The term “wholly formed,” when used in reference to thread, means that all the production processes, starting with the extrusion of filaments, strips, film, or sheet, and including slitting a film or sheet into strip, or the spinning of all fibers into thread, or both, and ending with thread, took place in the United States.

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For dresses of heading 6204 and shirts and blouses of headings 6205 and 6206 containing:

- (a) short or long sleeves;
- (b) a center front placket with button closure that runs the full length of the garment;
- (c) a collar and yoke;
- (d) either pleats or embroidery that run the full length of the garment on both sides of the center front placket from the yoke to the hem with a decorative button where the pleats or embroidery meet the yoke;
- (e) corresponding pleats or embroidery that run the full length of the garment on both sides of the back from the yoke to the hem with a decorative button where the pleats or embroidery meet the yoke;
- (f) four pockets with buttons on the front of the garment;
- (g) a straight hem; and
- (h) side vents or slits with a button closure,

the importing Party shall grant duty-free treatment to such goods, provided that they are both cut and sewn or otherwise assembled in the territory of one or both of the Parties.

**Article 3.9: CBTPA Equivalent Treatment for Socks**

For babies' socks and booties currently provided for under HTSUS subheadings 6111.20.6050, 6111.30.5050, and 6111.90.5050 and socks provided for under HS 6115.91 through 6115.99, the United States shall apply duty free treatment provided that the good is both cut or knit to shape in the territory of the United States, and sewn or otherwise assembled in the territory of one or both of the Parties.

**Article 3.10: Cumulation Consultations**

See Annex XX.X [**Consultations on Cumulation**].

**Article 3.11: Definitions**

For purposes of this Section:

**circumvention** means providing a false declaration or false information for the purpose of, or with the effect of, violating or evading existing customs, country of origin labeling, or trade laws of the respective Party relating to imports of textile and apparel goods, if such action results in

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the avoidance of tariffs, quotas, embargoes, prohibitions, restrictions, trade remedies, including antidumping or countervailing duties, or safeguard measures, or in obtaining preferential tariff treatment. Examples of circumvention include illegal transshipment; rerouting; fraud; false declarations concerning country of origin, fiber content, quantities, description, or classification; falsification of documents; and smuggling;

**claim of origin** means a claim that a textile or apparel good is an originating good or a good of a Party;

**eligible Party** refers to the Party whose calendar year exports by value classified under Chapters 61 through 62, excluding 6117.90 and 6217.90, of the HTS as a percentage of its calendar year total exports by value under Chapters 50 through 63 of the HTS exceed said percentage of the other Party's exports by value under Chapters 50 through 63 of the HTS. For purposes of this definition, the first calendar year shall be the most recent calendar year for which a full twelve months of data are available as of the signature date of the Agreement. If either Party's calendar year exports by value under Chapters 50 through 63 of the HTS fall below \$ 2 million, then the export data from the prior calendar year in which such trade exceeded \$ 2 million will be used for the purpose of this definition.

**exporting Party** means the Party from whose territory a textile or apparel good is exported;

**importing Party** means the Party into whose territory a textile or apparel good is imported;

**interested entity** means a Party, a potential or actual purchaser of a textile or apparel good, or a potential or actual supplier of a textile or apparel good;

**Molas** (or Morra in native Kuna) are defined as reverse appliqué, traditional and historic in nature, made within Panama, of small decorative pieces of cloth onto larger ones, elaborated back to front with a combination of fabrics of different bright colors. Molas are made up by hand in two or more layers of cut fabrics, handsewn one over the other, usually inspired in nature, cosmic view or geometrical designs.

**textile or apparel good** means a good listed in the Annex to the Agreement on Textiles and Clothing, except for those goods listed in Annex \_\_. [Textile or Apparel Goods Not Covered by Section G];

**textile safeguard measure** means a measure applied under Article [3.5.1] [Textile Safeguard Measures]; and

**transition period** means the five-year period beginning on the date of entry into force of this Agreement.

for Panama, **enterprise** means an enterprise involved in:



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- (a) production, processing, or manipulation of textile or apparel goods in Panama's territory, including in any free trade zone, foreign trade zone or export processing zone;
- (b) importation of such goods into Panama's territory, including in any free trade zone, foreign trade zone, or export processing zone; or
- (c) exportation of such goods from Panama's territory, including in any free trade zone, foreign trade zone, or export processing zone.

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**Annex**

**Short Supply List**

1	Velveteen fabrics classified in subheading 5801.23.
2	Corduroy fabrics classified in subheading 5801.22, containing 85 percent or more by weight of cotton and containing more than 7.5 wales per centimeter.
3	Fabrics classified in subheading 5111.11 or 5111.19, if hand-woven, with a loom width of less than 76 centimeter, woven in the United Kingdom in accordance with the rules and regulations of the Harris Tweed Association, Ltd., and so certified by the Association.
4	Fabrics classified in subheading 5112.30, weighing not more than 340 grams per square meter, containing wool, not less than 20 percent by weight of fine animal hair and not less than 15 percent by weight of man-made staple fibers.
5	Batiste fabrics classified in subheading 5513.11 or 5513.21, of square construction, of single yarns exceeding 76 metric count, containing between 60 and 70 warp ends and filling picks per square centimeter, of a weight not exceeding 110 grams per square meter.
6	Fabrics classified in subheading 5208.21, 5208.22, 5208.29, 5208.31, 5208.32, 5208.39, 5208.41, 5208.42, 5208.49, 5208.51, 5208.52, or 5208.59, of average yarn number exceeding 135 metric.
7	Fabrics classified in subheading 5513.11 or 5513.21, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric.
8	Fabrics classified in subheading 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 70 metric.
9	Fabrics classified in subheading 5208.22 or 5208.32, not of square construction, containing more than 75 warp ends and filling picks per square centimeter, of average yarn number exceeding 65 metric.
10	Fabrics classified in subheading 5407.81, 5407.82, or 5407.83, weighing less than 170 grams per square meter, having a dobby weave created by a dobby attachment.
11	Fabrics classified in subheading 5208.42 or 5208.49, not of square construction, containing more than 85 warp ends and filling picks per square centimeter, of average yarn number exceeding 85 metric.
12	Fabrics classified in subheading 5208.51, of square construction, containing more than 75 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number equal to or exceeding 95 metric.
13	Fabrics classified in subheading 5208.41, of square construction, with a gingham pattern, containing more than 85 warp ends and filling picks per square centimeter, made with single yarns, of average yarn number equal to or exceeding 95 metric, and characterized by a check effect produced by the variation in color of the yarns in the warp and filling.

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14	Fabrics classified in subheading 5208.41, with the warp colored with vegetable dyes, and the filling yarns white or colored with vegetable dyes, of average yarn number exceeding 65 metric.
15	Circular knit fabric, wholly of cotton yarns, exceeding 100 metric number per single yarn, classified in tariff item 6006.21.aa, 6006.22.aa, 6006.23.aa, or 6006.24.aa.
16	100% polyester crushed panne velour fabric of circular knit construction classified in tariff item 6001.92.aa.
17	Viscose rayon yarns classified in subheading 5403.31 or 5403.32.
18	Yarn of combed cashmere, combed cashmere blends, or combed camel hair classified in tariff item 5108.20.aa.
19	Two elastomeric fabrics used in waistbands, classified in tariff item 5903.90.bb: (1) a knitted outer-fusible material with a fold line that is knitted into the fabric. The fabric is a 45 millimeter wide base substrate, knitted in narrow width, synthetic fiber based (made of 49% polyester/43% elastomeric filament/8% nylon with a weight of 4.4 ounces, a 110/110 stretch, and a dull yarn), stretch elastomeric material with an adhesive (thermoplastic resin) coating. The 45 millimeter width is divided as follows: 34 millimeter solid, followed by a 3 millimeter seam allowing it to fold over, followed by 8 millimeter of solid; (2) a knitted inner-fusible material with an adhesive (thermoplastic resin) coating that is applied after going through a finishing process to remove all shrinkage from the product. The fabric is a 40 millimeter synthetic fiber based, stretch elastomeric fusible consisting of 80% nylon type 6 and 20% elastomeric filament with a weight of 4.4 ounces, a 110/110 stretch, and a dull yarn.
20	Fabrics classified in subheading 5210.21 or 5210.31, not of square construction, containing more than 70 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric.
21	Fabrics classified in subheading 5208.22 or 5208.32, not of square construction, containing more than 75 warp ends and filling picks per square centimeter, of average yarn number exceeding 135 metric.
22	Fabrics classified in subheading 5407.81, 5407.82, or 5407.83, weighing less than 170 grams per square meter, having a dobby weave created by a dobby attachment of average yarn number exceeding 135 metric.
23	Cuprammonium rayon filament yarn classified in subheading 5403.39.
24	Fabrics classified in subheading 5208.42 or 5208.49, not of square construction, containing more than 85 warp ends and filling picks per square centimeter, of average yarn number exceeding 85 metric, of average yarn number exceeding 135 metric if the fabric is Oxford construction.
25	Single ring-spun yarn of yarn numbers 51 and 85 metric, containing 50 percent or more, but less than 85 percent, by weight of 0.9 denier or finer micro modal fiber, mixed solely with U.S. origin extra long pima cotton, classified in subheading 5510.30.
26	Tow of viscose rayon classified in heading 55.02.
27	100 percent cotton woven flannel fabrics, single ring-spun yarns of different colors, of yarn numbers 21 through 36 metric, classified in tariff item 5208.43.aa, of 2 x 2 twill weave construction, weighing not more than 200 grams per square meter.

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28	Fabrics classified in the following tariff items of average yarn number exceeding 93 metric: 5208.21.aa, 5208.22.aa, 5208.29.aa, 5208.31.aa, 5208.32.aa, 5208.39.aa, 5208.41.aa, 5208.42.aa, 5208.49.aa, 5208.51.aa, 5208.52.aa, 5208.59.aa, 5210.21.aa, 5210.29.aa, 5210.31.aa, 5210.39.aa, 5210.41.aa, 5210.49.aa, 5210.51.aa, or 5210.59.aa.
29	Certain yarns of carded cashmere or of carded camel hair, classified in tariff item 5108.10.aa, used to produce woven fabrics classified in subheading 5111.11 or 5111.19.
30	Acid-dyeable acrylic tow classified in subheading 5501.30, for production of yarn classified in subheading 5509.31.
31	Untextured flat yarns of nylon classified in tariff item 5402.41.aa. The yarns are described as: (1) of nylon, 7 denier/5 filament nylon 66 untextured (flat) semi-dull yarn; multifilament, untwisted or with a twist not exceeding 50 turns/meter; (2) of nylon, 10 denier/7 filament nylon 66 untextured (flat) semi-dull yarn; multifilament, untwisted or with a twist not exceeding 50 turns/meter; or (3) of nylon, 12 denier/5 filament nylon 66 untextured (flat) semi-dull yarn; multifilament, untwisted or with a twist not exceeding 50 turns/meter.
32	Woven fabric classified in tariff item 5515.13.aa, combed of polyester staple fibers mixed with wool, and containing less than 36% by weight of wool.
33	Knitted fabric of 85% spun silk/15% wool (210 grams per square meter), classified in tariff item 6006.90.aa.
34	Woven fabrics classified in subheading 5512.99, containing 100% by weight of synthetic staple fibers, not of square construction, of average yarn number exceeding 55 metric.
35	Woven fabrics classified in subheadings 5512.21 or 5512.29, of 100% acrylic fibers, of average yarn number exceeding 55 metric.
36	Rayon filament sewing thread, classified in subheading 5401.20.
37	Poplin, ring spun, woven fabric of 97% cotton, 3% Lycra, classified in tariff item 5208.32.bb.
38	Polyester/Nylon/Spandex Synthetic Tri-blend (74/22/4%) woven fabric, classified in tariff item 5512.99.aa.
39	Two-way stretch woven fabric of polyester/rayon/spandex (62/32/6%), classified in tariff item 5515.19.aa.
40	Two-way stretch woven fabric of polyester/rayon/spandex (71/23/6%), classified in tariff item 5515.19.aa.
41	Dyed rayon blend (70% rayon/30% polyester) herringbone twill fabric, classified in subheading 5516.92, weighing more than 200 grams per square meter.
42	Printed 100% rayon herringbone fabric, classified in subheading 5516.14, weighing more than 200 grams per square meter.
43	Leaver's Lace classified in subheading 5804.21 or 5804.29.

Note: This list shall remain in effect until the United States publishes a replacement list that makes changes to the list pursuant to Article [3.6.4] or [3.6.5]. Any replacement list shall supersede this list and any prior replacement list, and the United States shall publish the replacement list at the same time that the United States makes a determination pursuant to

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Article [3.6.4], and six months after the United States makes a determination pursuant to Article [3.6.5]. The United States shall transmit a copy of any replacement list to Panama at the time it publishes the list.

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**Annex**

**Textile or Apparel Goods Not Covered by Section G [Textiles and Apparel]**

<b>HS No.</b>	<b>Product Description</b>
3005.90	Wadding, gauze, bandages, and the like
ex 3921.12 ex 3921.13 ex 3921.90	Woven, knitted, or non-woven fabrics coated, covered, or laminated with plastics
ex 6405.20	Footwear with soles and uppers of wool felt
ex 6406.10	Footwear uppers of which 50% or more of the external surface area is textile material
ex 6406.99	Leg warmers and gaiters of textile material
6501.00	Hat forms, hat bodies, and hoods of felt; plateaux and manchons of felt
6502.00	Hat shapes, plaited or made by assembling strips of any material
6503.00	Felt hats and other felt headgear
6504.00	Hats and other headgear, plaited or made by assembling strips of any material
6505.90	Hats and other headgear, knitted or made up from lace or other textile material
8708.21	Safety seat belts for motor vehicles
8804.00	Parachutes; their parts and accessories
9113.90	Watch straps, bands, and bracelets of textile materials
9502.91	Garments for dolls
Ex 9612.10	Woven ribbons of man-made fibers, other than those measuring less than 30 millimeters in width and permanently put up in cartridges

**Note:** Whether or not a textile or apparel good is covered by this Section shall be determined in accordance with the Harmonized System. The descriptions provided in this Annex are for reference purposes only.

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**Annex X.XX**

*Consultations on Cumulation*

Upon the conclusion by Panama of an agreement covering trade in textiles and apparel with a country with which the United States has concluded a free trade agreement, the Parties shall enter into consultations, pursuant to paragraphs 1 and 3 of Article [3.6] (Rules of Origin and Related Matters), with a view to deciding the extent to which inputs of such country that are incorporated into goods of a Party classified in Chapters 61 or 62 of the Harmonized System may be counted for purposes of satisfying the origin requirement under this Agreement.