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Issued in Kansas City, MO, on May 2, 2005.

Elizabeth S. Wallis,

Acting Area Director, Western Flight Services Operations.

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DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Parts 335 and 340

[Docket Number 001229368-5092-02]

RIN 0625-AA58

Imports of Certain Worsted Wool Fabric; Implementation of Tariff Rate Quota Established Under Title V of the Trade and Development Act of 2000

AGENCY: Department of Commerce, International Trade Administration.

ACTION: Final rule.

SUMMARY: The Department of Commerce is issuing final regulations implementing Section 501(e) and Section 504(b) of the Trade and Development Act of 2000 ("the Act"). Section 501(e) requires the President to fairly allocate tariff rate quotas on the import of certain worsted wool fabrics, tariff rate quotas which were established by Sections 501(a) and 501(b) of the Act. Section 504(b) authorizes the President to modify the limitations on worsted wool fabric imports under the tariff rate quotas. The President has delegated to the Secretary of Commerce the authority to allocate the quantity of imports under the tariff rate quotas and to determine whether the limitations on the quantity of imports under the tariff rate quotas should be modified.

DATES: This rule is effective on June 13, 2005.

ADDRESSES: Copies of the documents relevant to this action are available for inspection during normal business hours in room 3100 in the Herbert Hoover Building, 14th and Constitution Avenue, N.W., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Sergio Botero, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-4058.

SUPPLEMENTARY INFORMATION:

This supplementary information section is organized as follows:

A. Background

B. Public Comments Received and Department of Commerce Responses

C. Action Being Taken by the Department of Commerce
D. Statutory and Executive Order Reviews

A. Background

The Act creates two tariff rate quotas (TRQ), providing for temporary reductions for three years in the import duties on two categories of worsted wool fabrics suitable for use in making suits, suit-type jackets, or trousers: (1) for worsted wool fabric with average fiber diameters greater than 18.5 microns (new Harmonized Tariff Schedule of the United States (HTS) heading 9902.51.11), the reduction in duty is limited to 2,500,000 square meter equivalents or such other quantity proclaimed by the President; and (2) for worsted wool fabric with average fiber diameters of 18.5 microns or less (new HTS heading 9902.51.12), the reduction is limited to 1,500,000 square meter equivalents or such other quantity proclaimed by the President.

The Act requires that the tariff rate quotas be allocated. More specifically, the President must ensure that the tariff rate quotas are fairly allocated to persons (including firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits, suit-type jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year.

The Act requires that the President annually consider requests by U.S. manufacturers of certain worsted wool apparel to modify the limitation on the quantity of fabric that may be imported under the tariff rate quotas, and grants the President the authority to proclaim modifications to the limitations. In determining whether to modify the limitations, the President must consider specified U.S. market conditions with respect to worsted wool fabric and worsted wool apparel.

In Presidential Proclamation 7383, of December 1, 2000, the President authorized the Secretary of Commerce: (1) to allocate the imports of worsted wool fabrics under the tariff rate quotas; (2) to annually consider requests from domestic manufacturers of worsted wool apparel to modify the limitation on the quantity of worsted wool fabrics that may be imported under the tariff rate quotas; (3) to determine whether the limitations on the quantity of imports of worsted wool fabrics under the tariff rate quotas should be modified and to recommend to the President that appropriate modifications be made; and (4) to issue regulations to implement relevant provisions of the Act.

The Presidential Proclamation authorizing the Department of Commerce to issue regulations to implement these provisions was issued on December 1, 2000. Pursuant to the Act, the tariff rate quotas entered into force on January 1, 2001. Thus, there was good cause to find that in order to meet the statutory implementation date and to ensure that importers receive the benefit of the reduction in tariff rate as soon as possible, the otherwise applicable notice and comment procedures were impracticable and contrary to the public interest under 5 U.S.C. 553(b)(B). Moreover, for the same reason, there was good cause to find that the effective date of the interim rule should not be delayed until 30 days after its publication under 5 U.S.C. 553(d)(3). While the interim regulations became effective on January 22, 2001, the Department of Commerce solicited comments on the interim regulations and expressed particular interest in comments concerning any impact the regulations might have on small or medium sized businesses.

B. Public Comments Received and Department of Commerce Responses

The Department of Commerce received the comments described below from a number of parties, including businesses, trade associations and counsel for other interested parties. Comments specifically pertaining to the allocation of previous years' tariff rate quotas have been omitted as moot.

Comment: Applicants should be allowed to include in reported production amounts worsted wool fabric cut and sewn on behalf of an owner.

Response: The legislation states that the allocation is to be based on the amount of men's and boys' suits cut and sewn in the U.S. during the prior calendar year and shall be granted to persons (including, firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States. The fabric TRQ allocated to a licensee is intended for the licensee's own production, or production on its behalf by contractors using the licensee's owned fabric, and not for the cutting and sewing of garments for others with fabric they do not own.

Comment: Persons involved in the production of men's and boys' worsted wool suits, suit-type jackets and trousers other than those who cut and sew such garments, such as importers of worsted wool fabric, should be allowed to apply for licenses.

Response: The legislation states that the President is to ensure that such fabrics are fairly allocated to persons (including, firms, corporations, or other legal entities) who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year. Therefore, others such as importers of worsted wool fabric, are not eligible to apply for licenses.

Comment: The definition of Worsteds Wool Suits should be amended to make it clear that the reference to the 85 percent wool requirement is limited to the shell fabric and does not apply to the suit itself.

Response: The definition of Worsteds Wool Suits is amended in this rule to men's and boys' worsted wool suits, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

Comment: The applicant, rather than the importer of the worsted wool fabric, should certify that the fabric is suitable for making suits.

Response: The requirement that the importer of the worsted wool fabric certify that the fabric is suitable for making suits, suit-type coats and trousers was established in Title V of the Trade and Development Act of 2000 and is presently set forth in the U.S. notes 15b and 16b of sub-chapter II of chapter 99 of the Harmonized Tariff Schedule of the United States of 2005. Because the requirement was mandated by statute, the Department is unable to change the regulations to allow the applicant to provide the certification.

Comment: The rule should specify the information to be supplied by a licensee to an importer in a written authorization pursuant to which the importer will import worsted wool fabric within the TRQ.

Response: Written authorization guidelines from a licensee to an importer are included in the document A Conditions for License Use which is affixed to the back of each License issued by the Department of Commerce.

C. Action Being Taken by the Department of Commerce

The Department of Commerce is revising 15 CFR Parts 335 and 340. 15 CFR Part 335 sets forth regulations regarding the issuance and effect of licenses for the allocation of worsted wool fabric under the tariff rate quotas established by Section 501 of the Act. 15 CFR Part 340 sets forth regulations regarding the procedures for considering requests to modify the limitations on the quantity of imports of fabrics of worsted

wool fabric under the tariff rate quotas established by Section 501 of the Act.

Part 335

Section 501(e) of the Act requires that the worsted wool fabrics imported under the tariff rate quotas be "fairly allocated" to persons "who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States and who apply for an allocation based on the amount of such suits cut and sewn during the prior calendar year." As the Joint Explanation of the Committee of Conference ("Conference Report") makes clear, Congress intended the tariff rate quotas to address the duty situation faced by U.S. wool suit manufacturers, in which worsted wool fabric is subject to considerably higher duties than worsted wool suits, a situation compounded by reductions in tariffs on wool suits under free trade agreements with Canada and Mexico.

The Department of Commerce will annually solicit applications for licenses for an allocation of the forthcoming calendar year's tariff rate quotas on worsted wool fabrics on or around August 31 of the year preceding the tariff rate quota year, in order to allow companies to be informed of their allocation as early as possible while still allowing an allocation based on previous year production. The Department intends to make its determination regarding the allocation on or about November 1 and to issue licenses no later than December 31 of the year preceding the tariff rate quota year.

Each of the two tariff rate quotas will be allocated based on previous year production utilizing the worsted wool fabric that is the subject of the tariff rate quota. That is, the tariff rate quota on worsted wool fabric with average fiber diameters greater than 18.5 microns (HTS 9902.51.11) will be allocated based on production utilizing this type of worsted wool fabric, while the tariff rate quota on worsted wool fabric with average fiber diameters of 18.5 microns or less (HTS 9902.51.12) will be allocated based on production utilizing this type of worsted wool.

For reporting subsequent year production information, applicants will be required to report production based on micron count of the worsted wool fabric. In order to utilize the most current data possible for all years, and to meet the statutory requirement that the allocation be based on production during the prior calendar year, each tariff rate quota will be allocated based on production during the first six

months of the previous calendar year, annualized.

Pursuant to the statutory requirement, allocation will be limited to persons who cut and sew three types of garments during the calendar year of the application: (1) men's and boys' worsted wool suits; (2) men's and boys' worsted wool suit-type jackets; and (3) men's and boys' worsted wool trousers. Only manufacturers of all three types of garments will be eligible for an allocation. Pursuant to the statutory requirement that allocation be based on the men's and boys' worsted wool suits cut and sewn during the prior calendar year, in allocating the tariff rate quotas, only production of men's and boys' worsted wool suits will be considered. To be considered, a worsted wool garment's outer surface must contain at least 85 percent by weight worsted wool, which is consistent with the definitions of wool fiber and fabric in the Act and the Conference Report.

In order to fairly allocate the tariff rate quotas, manufacturers that utilize imported worsted wool fabric in production will be provided a greater allocation than manufacturers that utilize domestic worsted wool fabric. This will allow the manufacturers that will actually use the imported fabric that is subject to the tariff rate quotas to obtain a relatively greater share of the fabric, as compared to manufacturers that use only domestic fabric. For the purpose of calculating allocations, suit production will be increased by the ratio of imported fabric used to total fabric used in the production of men's and boys' suits. For example, if an applicant uses imported fabric for 30 percent of its worsted wool suits production, that applicant's suit production level will be increased by 30 percent for purposes of calculating the applicant's allocation.

In order to ensure that the tariff rate quotas are fully utilized, a licensee that will not import the full quantity allocated to it is required to surrender the unused allocation to the Department of Commerce for reallocation. The quantity surrendered will be reallocated to licensees that apply for a reallocation on the same basis as the original allocation. A licensee that does not surrender unused allocation and fails to import at least 95 percent of the quantity allocated will be penalized in the subsequent year by a reduction in its allocation proportionate to the amount unused.

Part 340

Section 504(b) of the Act requires the President to consider, on an annual basis, requests by U.S. manufacturers of

certain worsted wool apparel to modify the limit on importation under the tariff rate quotas. As the Act requires the consideration of such requests "on an annual basis," a petition process will take place for each year the tariff rate quotas are in effect. Each year, the Department of Commerce will cause to be published in the **Federal Register** a notice soliciting requests by U.S. manufacturers for modification of the limit for the following year. The Department will then cause to be published in the **Federal Register** a notice soliciting comments by any interested person, including U.S. manufacturers of worsted wool fabric, wool yarn, wool top and wool fiber, regarding the requested modification or modifications. In order to allow manufacturers and other interested persons to submit the most current data possible and to allow the Department to make its determination prior to January 1, manufacturers will have 15 days to submit a request and interested persons will have 20 days to submit comments.

Within 30 days of the end of the period for receiving public comments regarding requested modification or modifications, the Department will make a determination whether the limitations should be modified and recommend to the President that appropriate modification be made. The determination and recommendation will be based on the U.S. market conditions, particularly those factors set forth in the Act.

D. Statutory and Executive Order Reviews

This final rule contains information collection requirements subject to the Paperwork Reduction Act (PRA). These information collection requirements have received PRA approval from the Office of Management and Budget (OMB) under control number 0625-0240. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the PRA unless that collection of information displays a currently valid OMB control number.

The information collected will be used by the Department to allocate the tariff rate quota among U.S. manufacturers and to determine whether the tariff rate quota limitations should be modified. Responses to the collection of information are required for a manufacturer to receive an allocation of the tariff rate quota, to submit a request for a modification, and to comment on such a request. Confidentiality of information will be

handled in accordance with §335.3(e) and 340.5(b). Records substantiating information provided in an application to receive an allocation must be retained. It is estimated that the annual public burden for the collection will average: (1) seven hours per application for an allocation of a tariff rate quota; (2) one hour per application for a reallocation; (3) 24 hours per request for a modification of a limitation on the tariff rate quotas; and (4) 24 hours for comments on such a request. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Pursuant to Executive Order 12866, this final rule has been determined to be not significant.

Dated: May 5, 2005.

Joseph A. Spetrini

Acting Assistant Secretary for Import Administration.

List of Subjects

15 CFR Part 335

Imports, Quotas, Reporting and recordkeeping, Tariffs, Textiles.

15 CFR Part 340

Imports, Quotas, Reporting and recordkeeping, Tariffs, Textiles.

■ For the reasons stated in the preamble, 15 CFR Parts 335 and 340 are revised to read as follows:

PART 335—IMPORTS OF WORSTED WOOL FABRIC

Sec.

- §335.1 Purpose.
- §335.2 Definitions.
- §335.3 Applications to receive allocation.
- §335.4 Allocation.
- §335.5 Licenses.
- §335.6 Surrender, reallocation and license utilization requirement.
- §335.7 Modifications of the limitation.

Authority: Title V Pub. L. 106-200, 114 Stat. 299; Presidential Proclamation 7383, 65 FR 76551, 3 CFR, 2000 Comp., p.212.

§335.1 Purpose.

This part sets forth regulations regarding the issuance and effect of licenses for the allocation of Worsted Wool Fabric under the Tariff Rate Quotas established by Section 501 of the Act.

§335.2 Definitions.

For purposes of these regulations and the forms used to implement them:

The Act means the Trade and Development Act of 2000 (Public Law No. 106-200, 114 Stat 251).

The Department means the United States Department of Commerce.

HTS means the Harmonized Tariff Schedule of the United States.

Imports subject to Tariff Rate Quotas are defined by date of presentation as defined in 19 CFR 132.1(d) and 19 CFR 132.11(a).

Licensee means an applicant for an allocation of the Tariff Rate Quotas that receives an allocation and a license.

Production means cutting and sewing garments in the United States.

Tariff Rate Quota or Quotas means the temporary duty reduction provided under Section 501 of the Act for limited quantities of fabrics of worsted wool with average diameters greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.11), and for limited quantities of fabrics of worsted wool with average diameters of 18.5 microns or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.12).

Tariff Rate Quota Year means a calendar year for which the Tariff Rate Quotas are in effect.

Worsted Wool Fabric means fabric containing at least 85 percent by weight worsted wool.

Worsted Wool Suits means men's and boys' worsted wool suits, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

Worsted Wool Suit-Type Jackets mean men's and boys' worsted wool suit-type jackets, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

Worsted Wool Trousers means men's and boys' worsted wool trousers, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

§335.3 Applications to receive allocation.

(a) In each year prior to a Tariff Rate Quota Year, the Department will cause to be published a **Federal Register** notice soliciting applications to receive an allocation of the Tariff Rate Quotas.

(b) An application for a Tariff Rate Quota allocation must be received, or postmarked by the U.S. Postal Service, within 30 calendar days after the date of publication of the **Federal Register** notice soliciting applications.

(c) During the calendar year of the date of the application, an applicant must have cut and sewed in the United States all three of the following apparel products: Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers. The applicant may either have cut and sewn these products on its own behalf or had another person

cut and sew the products on the applicant's behalf, provided the applicant owned the fabric at the time it was cut and sewn. The application must contain a statement to this effect.

(d) An applicant must provide the following information in the format set forth in the application form provided by the Department:

(1) *Identification*. Applicant's name, address, telephone number, fax number, and federal tax identification number; name of person submitting the application, and title, or capacity in which the person is acting for the applicant.

(2) *Production*. Name and address of each plant or location where Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers were cut and sewn by the applicant and the name and address of all plants or locations that cut and sewed such products on behalf of the applicant. Production data, including the following: the quantity and value of the Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers cut and sewn in the United States by applicant, or on behalf of applicant, from fabric owned by applicant. This data must indicate actual production (not estimates) of Worsted Wool Suits, Worsted Wool Suit-Type Jackets and Worsted Wool Trousers the outer surface of which contains at least 85 percent worsted wool fabric by weight with an average diameter of 18.5 microns or less. This data must also indicate actual production (not estimates) of Worsted Wool Suits, Worsted Wool Suit-Type Jackets and Worsted Wool Trousers the outer surface of which contains least 85 percent worsted wool fabric by weight with average diameter greater than 18.5 microns. Production data must be provided for the first six months of the year of the application. This data will be annualized for the purpose of making Tariff Rate Quota allocations.

(3) *Worsted Wool Fabric*. Data indicating the quantity and value of the Worsted Wool Fabric used in reported production.

(4) *Certification*. A statement by the applicant (if a natural person), or on behalf of applicant, by an employee, officer or agent, with personal knowledge of the matters set out in the application, certifying that the information contained therein is complete and accurate, signed and sworn before a Notary Public, and acknowledging that false representations to a federal agency may result in criminal penalties under federal law.

(e) *Confidentiality*. Any business confidential information provided pursuant to this section that is marked "business confidential" will be kept confidential and protected from disclosure to the full extent permitted by law.

(f) *Record retention*. The applicant shall retain records substantiating the information provided in paragraphs (d)(2), (3), and (4) of this section for a period of 3 years and the records must be made available upon request by an appropriate U.S. government official.

§ 335.4 Allocation.

(a) Each Tariff Rate Quota (HTS 9902.51.11 and HTS 9902.51.12) will be allocated separately. Allocation will be based on an applicant's Worsted Wool Suit production, on a weighted average basis, and the proportion of imported Worsted Wool Fabric consumed in the production of Worsted Wool Suits.

(b) For the purpose of calculating allocations, Worsted Wool Suit production will be increased by the percentage of imported fabric consumed in the production of Worsted Wool Suits to total fabric consumed in this production. For example, if an applicant uses 30 percent imported fabric in the production of Worsted Wool Suits, that applicant's production level will be increased by 30 percent.

(c) The Department will cause to be published in the **Federal Register** its determination to allocate the Tariff Rate Quotas and will notify applicants of their respective allocation as soon as possible. Promptly thereafter, the Department will issue licenses.

§ 335.5 Licenses.

(a) Each Licensee will receive a license, which will include a unique control number. The license is subject to the surrender and reallocation provisions in § 335.6.

(b) A license may be exercised only for fabric entered for consumption, or withdrawn from warehouse for consumption, during the Tariff Rate Quota Year specified in the license. A license will be debited on the basis of date of entry for consumption or withdrawal from warehouse for consumption.

(c) A Licensee may import fabric certified by the importer as suitable for use in making suits, suit-type jackets, or trousers under the appropriate Tariff Rate Quota as specified in the license (i.e., under the Tariff Rate Quota for fabric of worsted wool with average fiber diameters greater than 18.5 micron or the Tariff Rate Quota for fabric of worsted wool with average fiber diameters of 18.5 micron or less) up to

the quantity specified in the license subject to the Tariff Rate Quota duty rate. Only a Licensee or an importer authorized by a Licensee will be permitted to import fabric under the Tariff Rate Quotas and to receive the Tariff Rate Quota duty rate.

(d) The term of a license shall be the Tariff Rate Quota Year for which it is issued. Fabric may be entered or withdrawn from warehouse for consumption under a license only during the term of that license. The license cannot be used for fabric entered or withdrawn from warehouse for consumption after December 31 of the year of the term of the license.

(e) The importer of record of fabric entered or withdrawn from warehouse for consumption under a license must be the Licensee or an importer authorized by the Licensee to act on its behalf. If the importer of record is the Licensee, the importer must possess the license at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501).

(f) A Licensee may only authorize an importer to import fabric under the license on its behalf by making such an authorization in writing or by electronic notice to the importer and providing a copy of such authorization to the Department. A Licensee may only withdraw authorization from an importer by notifying the importer, in writing or by electronic notice, and providing a copy to the Department.

(g) The written authorization must include the unique number of the license, must specifically cover the type of fabric imported, and must be in the possession of the importer at the time of filing the entry summary or warehouse withdrawal for consumption (Customs Form 7501), or its electronic equivalent, in order for the importer to obtain the applicable Tariff Rate Quota duty rate.

(h) It is the responsibility of the Licensee to safeguard the use of the license issued. The Department and the U.S. Customs Service will not be liable for any unauthorized or improper use of the license.

§ 335.6 Surrender, reallocation and license utilization requirement.

(a) Not later than September 30 of each Tariff Rate Quota Year, a Licensee that will not import the full quantity granted in a license during the Tariff Rate Quota Year shall surrender the allocation that will not be used to the Department for purposes of reallocation through a written or electronic notice to the Department, including the license control number and the amount being surrendered. The surrender shall be

final, and shall apply only to that Tariff Rate Quota Year.

(b) For purposes of this section, "unused allocation" means the amount by which the quantity set forth in a license, including any additional amount received pursuant to paragraph (d) of this section, exceeds the quantity entered under the license, excluding any amount surrendered pursuant to paragraph (a) of this section.

(c) The Department will notify Licensees of any amount surrendered and the application period for requests for reallocation. A Licensee that has imported, or intends to import, a quantity of Worsted Wool Fabric exceeding the quantity set forth in its license may apply to receive additional allocation from the amount to be reallocated. The application shall state the maximum amount of additional allocation the applicant will be able to use.

(d) The amount surrendered will be reallocated to Licensees that have applied for reallocation. The entire amount surrendered will be reallocated pro-rata among applicants based on the applicant's share of the annual allocation, but will not exceed the amount set forth in the reallocation application as the maximum amount able to be used.

(e) A Licensee whose unused allocation in a Tariff Rate Quota Year exceeds five percent of the quantity set forth in its license shall be subject to having its allocation reduced in the subsequent Tariff Rate Quota Year. The subsequent Tariff Rate Quota Year allocation will be reduced from the quantity such Licensee would otherwise have received by a quantity equal to 25 percent of its unused allocation from the prior year. A Licensee whose unused allocation in two consecutive Tariff Rate Quota Years exceeds five percent of the quantity set forth in its license shall have its allocation reduced in the subsequent Tariff Rate Quota Year by a quantity equal to 50 percent of its unused allocation from the prior year.

(f) No penalty will be imposed under paragraph (e) of this section if the Licensee demonstrates to the satisfaction of the Department that the unused allocation resulted from breach by a carrier of its contract of carriage, breach by a supplier of its contract to supply the fabric, act of God, or force majeure.

§ 335.7 Modifications of the limitation.

In the event the limitation on the quantity of imports of Worsted Wool Fabric under the Tariff Rate Quotas is increased, the increase will be allocated on the same basis as the rest of the Tariff

Rate Quotas. Licenses will be issued or adjusted accordingly.

PART 340—MODIFICATION OF THE TARIFF RATE QUOTA LIMITATION ON WORSTED WOOL FABRIC IMPORTS

Sec.

§340.1 Purpose.

§340.2 Definitions.

§340.3 Requests for modification.

§340.4 Comments regarding requested modification.

§340.5 Requests for modification and comments.

§340.6 Requests for additional information.

§340.7 Determination.

Authority: Authority: Pub. L. 106-200, 114 Stat. 299; Presidential Proclamation 7383, 65 FR 76551, 3 CFR, 2000 Comp., p. 212.

§ 340.1 Purpose.

This part sets forth regulations regarding the procedures for considering requests to modify the limitations on the quantity of imports of fabrics of worsted wool under the Tariff Rate Quotas established by Section 501 of the Act. Section 504 of the Act requires annual consideration of such requests made by U.S. manufacturers of certain apparel products made of Worsted Wool Fabrics and grants the authority to modify the limitations.

§ 340.2 Definitions.

For purposes of these regulations and the forms used to implement them:

The Act means the Trade and Development Act of 2000 (Public Law No. 106-200, 114 Stat 251).

The Department means the United States Department of Commerce.

HTS means the Harmonized Tariff Schedule of the United States.

Imports subject to Tariff Rate Quotas are defined by date of presentation as defined in 19 CFR 132.1(d) and 19 CFR 132.11(a).

Production means cutting and sewing garments in the United States.

Tariff Rate Quota or Quotas means the temporary duty reduction provided under Section 501 of the Act for limited quantities of fabrics of worsted wool with average diameters greater than 18.5 micron, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.11), and for limited quantities of fabrics of worsted wool with average diameters of 18.5 microns or less, certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (HTS heading 9902.51.12).

Tariff Rate Quota Year means a calendar year for which the Tariff Rate Quotas are in effect.

Worsted Wool Fabric means fabric containing at least 85 percent by weight worsted wool.

Worsted Wool Suits means men's and boys' worsted wool suits, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

Worsted Wool Suit-Type Jackets mean men's and boys' worsted wool suit-type jackets, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

Worsted Wool Trousers means men's and boys' worsted wool trousers, the outer surface of which contains at least 85 percent by weight worsted wool fabric.

§ 340.3 Requests for modification.

(a) On an annual basis, the Department will cause to be published a **Federal Register** notice soliciting requests from U.S. manufacturers of Worsted Wool Suits, Worsted Wool Suit-Type Jackets, and Worsted Wool Trousers to modify the limitations on the quantity of imports of fabrics of worsted wool under the Tariff Rate Quotas. Requests must be received, or postmarked, on a date no later than 15 calendar days after the date of the **Federal Register** notice.

(b) A request shall include:

(1) The name, address, telephone number, fax number, and Internal Revenue Service number of the requester;

(2) The relevant worsted wool apparel product(s) manufactured by the person(s), that is, Worsted Wool Suits, Worsted Wool Suit-Type Jackets, or Worsted Wool Trousers;

(3) The modification requested, including the amount of the modification and the limitation that is the subject of the request (HTS heading 9902.51.11 and/or 9902.51.12); and

(4) A statement of the basis for the request, including all relevant facts and circumstances.

(c) A request should include the following information for each limitation that is the subject of the request, to the extent available:

(1) A list of suppliers from which the requester purchased domestically produced Worsted Wool Fabric during the 12 months preceding the request, the dates of such purchases, the quantity purchased, the quantity of imported Worsted Wool Fabric purchased, the countries of origin of the imported Worsted Wool Fabric purchased, the average price paid per square meter of the domestically produced Worsted Wool Fabric purchased, and the average price paid per square meter of the imported Worsted Wool Fabric purchased;

(2) A list of domestic Worsted Wool Fabric producers that declined, on request, to sell Worsted Wool Fabric to

the requester during the 12 months preceding the request, indicating the product requested, the date of the order, the price quoted, and the reason for the refusal;

(3) The requester's domestic production and sales for the most recent six month period for which such data is available and the comparable six month period in the previous year, for each of the following products: Worsted Wool Suits, Worsted Wool Suit-Type Jackets, or Worsted Wool Trousers;

(4) Evidence that the requester lost production or sales due to an inadequate supply of domestically-produced Worsted Wool Fabric on a cost competitive basis; and

(5) Other evidence of the inability of domestic producers of Worsted Wool Fabric to supply domestically produced Worsted Wool Fabric to the requester.

§ 340.4 Comments regarding requested modification.

(a) If the Department receives a request or requests from a U.S. manufacturer under §340.3, the Department will cause to be published in the **Federal Register** a notice summarizing the request or requests and soliciting comments from any interested person, including U.S. manufacturers of Worsted Wool Fabric, wool yarn, wool top and wool fiber, regarding the requested modification. Comments must be received, or postmarked, on a date not later than 20 calendar days after the date of the **Federal Register** notice.

(b) If the person submitting comments is a domestic producer of Worsted Wool Fabric, comments should include, to the extent available, the following information for each limitation with respect to which comments are being made:

(1) A list of domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets, or Trousers for whom orders were filled during the twelve months prior to the submission of the comments, the date of such orders, the total quantity ordered and supplied in square meters of domestically produced Worsted Wool Fabric and of imported Worsted Wool Fabric, and the average price received per square meter of domestically produced Worsted Wool Fabric and of imported Worsted Wool Fabric for such orders.

(2) A list of all requests to purchase Worsted Wool Fabric during the twelve months prior to the submission of the comments that were rejected by the person submitting the comments, indicating the dates of the requests, the quantity requested, the price quoted, and the reasons why the request was rejected;

(3) Data indicating increase and/or decrease in production and sales for the most recent six month period for which data is available and the comparable six month period in the previous year of domestically-produced Worsted Wool Fabrics used in the production of Worsted Wool Suits, Suit-Type Jackets and Trousers.

(4) Evidence of lost sales due to the temporary duty reductions on certain Worsted Wool Fabric under the Tariff Rate Quotas; and

(5) Other evidence of the ability of domestic producers of Worsted Wool Fabric to meet the needs of the manufacturers of Worsted Wool Suits, Suit-Type Jackets and Trousers in terms of quantity, variety, and other relevant factors.

§ 340.5 Requests for modification and comments.

(a) Requests for modification and comments must be accompanied by a statement by the person submitting the request or comments (if a natural person), or an employee, officer or agent of the legal entity submitting the request or comments, with personal knowledge of the matters set forth therein, certifying that the information contained therein is complete and accurate, signed and sworn before a Notary Public, and acknowledging that false representations to a federal agency may result in criminal penalties under federal law.

(b) Any business confidential information provided pursuant to this section that is marked business confidential will be kept confidential and protected from disclosure to the full extent permitted by law. To the extent business confidential information is provided, a non-confidential submission shall also be provided, in which business confidential information is summarized or, if necessary, deleted.

§ 340.6 Requests for additional information.

The Department may request additional information from any manufacturer of Worsted Wool Suits, Suit-Type Jackets and Trousers, or manufacturer of Worsted Wool Fabric, wool yarn and wool top and fiber concerning information relevant to modifying the limitations.

§ 340.7 Determination.

(a) Based on information obtained, including information on market conditions obtained pursuant to the monitoring required under Section 504(a) of the Act, the Department shall consider the following United States market conditions as required by Section 504(b)(2) of the Act:

(1) Increases or decreases in sales of the domestically-produced Worsted Wool Fabrics used in the manufacture of Worsted Wool Suits, Suit-Type Jackets and Trousers;

(2) Increases or decreases in domestic production of such Worsted Wool Fabrics;

(3) Increases or decreases in domestic production and consumption of Worsted Wool Suits, Suit-Type Jackets and Trousers;

(4) The ability of domestic producers of Worsted Wool Fabrics to meet the needs of domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets and Trousers in terms of quantity and the ability to meet market demands for the apparel items;

(5) Evidence that domestic manufacturers of Worsted Wool Fabrics used in the manufacture of Worsted Wool Suits, Suit-Type Jackets and Trousers have lost sales due to the temporary duty reductions on certain fabrics of worsted wool under the Tariff Rate Quota;

(6) Evidence that domestic manufacturers of Worsted Wool Suits, Suit-Type Jackets and Trousers have lost sales due to the inability to purchase adequate supplies of worsted wool fabrics on a cost competitive basis; and

(7) Price per square meter of imports and domestic sales of Worsted Wool Fabrics.

(b) Not later than 30 calendar days after the end of the comment period provided for in §340.4(a), and on the basis of its consideration of the market conditions set forth in paragraph (a) of this section and other relevant factors, and using the facts available, the Department will determine whether the limitations on the quantity of imports under the Tariff Rate Quotas should be modified and recommend to the President that appropriate modifications be made. Consistent with section 504(b)(3)(B) of the Act, such modification shall not exceed 1,000,000 square meter equivalents for each of the Tariff Rate Quotas.

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