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I write in response to **Pima Agriculture Cotton Trust Fund and Agriculture Wool Apparel Manufacturers Trust Fund, Final rule with request for comments**, published by the U.S. Department of Agriculture ("the Department") March 9, 2015, in the *Federal Register* at 80 FR 12321 *et seq.* Agathon Associates, David Trumbull principal, consults internationally to the textile industry. Current clients include domestic U.S. producers of wool yarns and fabrics of the kind specified in the Rule and importers of wool fiber, top, yarn, and fabric of the kind specified in the Rule.

Title V of the Trade and Development Act of 2000 (May 18, 2000, Pub. Law 106-200, Stat. 303) provided for duty reductions and suspensions relating to certain wool and wool products, payments to U.S. manufacturers of certain wool textiles and apparel, and a trust fund to promote the U.S. sheep industry. For convenience, I refer to these provisions collectively as the "Wool Program." The Wool Program was carefully crafted to assist every sector of the U.S. wool industry, sheep farmers, processors of fiber into yarns and fabrics, and apparel producers. From 2002 through 2008 Congress modified the Wool Program four times (Public Law No 107-210 (August 6, 2002 116 Stat. 1047), Public Law 108-429 (December 3, 2004 118 Stat. 2603), Public Law No: 109-280 (August 17, 2006 120 Stat. 1166), Public Law 110-343 (October 3, 2008 122 Stat. 3875)). Congress again modified the Wool Program in Sections 12315 and 12316 of the Agricultural Act of 2014 ("Farm Bill") (Public Law 113-79 (February 7, 2014 128 Stat. 649)). With each modification Congress extended the time duration of the Wool Program and expanded the benefits available to the wool industry. Clearly, Congress intended to expand promotion of the U.S. wool industry in creating and modifying the Wool Program. The Wool Program comprises five distinct elements

- (1) Payments to Manufacturers of Certain Worsted Wool Fabrics (formerly U.S. Department of Commerce wool grants),
- (2) Monetization of the Wool Tariff Rate Quota ("TRQ") for importers of certain worsted wool fabric,
- (3) Wool Yarn, Wool Fiber, and Wool Top Duty Compensation Payments (formerly U.S. Customs and Border Protection wool payments),
- (4) Refund of Duties Paid on Imports of Certain Wool Products, and

(5) Wool (Sheep) Research and Promotion.

The Rule published March 9, 2015, relates to numbers 1, 2, and 3.

The Wool Program is complex and I applaud the Department for its diligence in drafting this implementing rule to assure that each participating entity will receive the payments it is eligible for in a timely manner, and with the least amount of paper work or other inconvenience. I also applaud the Department for recognizing that indirect importers, as well as direct importers, would have saved money had the duty reductions and suspensions provided for under headings 9902.51.11, 9902.51.13, 9902.51.14, 9902.51.15, and 9902.51.16 of the Harmonized Tariff Schedule of the United States not expired at the end of 2014 and, therefore, providing for payments to indirect importers as well as to direct importers.

However, I find in the Rule some needs for improvement.

1. Payments to Manufacturers of Certain Worsted Wool Fabrics.

(a) On Page 12329, in paragraph (b)(1)(ii) of Sec. 1471.11,

FOR

"Payment amounts. A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) for the calendar year immediately preceding the payment of qualifying worsted wool fabric described in paragraph (b)(1)(i) of this section in relation to the total production for the calendar year immediately preceding the payment of such fabric by all eligible persons who qualify for payments under this paragraph."

READ

"Payment amounts. A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) for the calendar years 1999, 2000, and 2001 of qualifying worsted wool fabric described in paragraph (b)(1)(i) of this section in relation to the total production for the calendar years 1999, 2000, and 2001 of such fabric by all eligible persons who qualify for payments under this paragraph."

JUSTIFICATION

Paragraph (b)(1)(B) of Section 12315 of the Farm Bill provides for annual payments to --

"(B) To each eligible manufacturer under paragraph (6) of such section 4002(c)--

"(i) for calendar years 2010 through 2014, payments that, when added to any other payments made to eligible manufacturers under that paragraph in such calendar years, equal the total amount of payments authorized to be provided to the manufacturer under that paragraph, or the provisions of this section, in such calendar years; and

"(ii) for calendar years 2015 through 2019, payments in amounts authorized under that paragraph."

Paragraph 6 of Section 4002(c) of the Textile Trade Extension Act of 2004 (Public Law 108-429; 118 Stat. 2600) provides that grants shall be --

"allocated among such manufacturers on the basis of the percentage of each manufacturer's production of the fabric described in heading 9902.51.12 of the Harmonized Tariff Schedule of the United States for calendar years 1999, 2000, and 2001, compared to the production of such fabric by all manufacturers who qualify. . ."

and

"allocated among such manufacturers on the basis of the percentage of each manufacturer's production of the fabric described in heading 9902.51.11 of the Harmonized Tariff Schedule of the United States for calendar years 1999, 2000, and 2001, compared to the production of such fabric by all manufacturers who qualify. . ."

The is acknowledge by the Department in the preamble to the Rule, which states, on page 12322:

"As specified by the Miscellaneous Trade and Technical Corrections Act of 2004, an amount of \$2.666 million is available each year for each HTS subheading of wool fabric, to be divided between persons based on the percentage of each person's total actual manufacturing of that type of worsted wool fabric during each of calendar years 1999, 2000, and 2001 in relation to the total manufacturing of such fabric by all persons who qualified for payments in those years."

(b) On page 12329, in paragraphs (b)(2)(ii) of Sec. 1471.11,

FOR

"Payment amounts. A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) for the calendar year immediately preceding the payment of qualifying worsted wool fabric described in paragraph (b)(2)(i)

of this section in relation to the total production for the calendar year immediately preceding the payment of such fabric by all eligible persons who qualify for payments under this paragraph."

READ

"Payment amounts. A total of \$2,666,000 will be allocated annually among eligible persons covered by this paragraph on the basis of the percentage of each eligible person's total production (actual production, not estimates) for the calendar years 1999, 2000, and 2001 of qualifying worsted wool fabric described in paragraph (b)(2)(i) of this section in relation to the total production for the calendar years 1999, 2000, and 2001 of such fabric by all eligible persons who qualify for payments under this paragraph."

JUSTIFICATION

Same as for 1(a) above.

2. Monetization of the Wool Tariff Rate Quotas.

(a) On page 12330, in paragraph a(2)(i)(B) of Sec. 1471.13,

FOR

"Used the imported qualifying worsted wool fabric

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys; or

(2) In the case of wool fabric of the kind described in subheading 9902.51.16 of the 2014 HTS, used such wool fabric in manufacturing."

READ

"Was a manufacturer who

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, was a manufacturer in the United States of worsted wool suits, suit-type jackets and trousers for men and boys in the U.S.; or

(2) In the case of wool fabric of the kind described in subheading 9902.51.16 of the 2014 HTS, was a manufacturer in the United States of such worsted wool fabric in the U.S."

JUSTIFICATION

Paragraphs (a) and (b) of Sec. 505 of Title V of the Trade and Development Act of 2000 (May 18, 2000, Pub. Law 106-200, Stat. 303) which created the TRQs found at 9902.51.11 HTS and 9902.51.15 HTS state

"(a) CERTAIN WORSTED WOOL FABRICS WITH AVERAGE FIBER DIAMETERS GREATER THAN 18.5 MICRON-

"(1) IN GENERAL- Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"` 9902.51.11 Fabrics, of worsted wool, with average fiber diameters greater than 18.5 micron, all the foregoing certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90) 19.3% No change No change On or before 12/31/2003 '.

"(2) STAGED RATE REDUCTIONS- Any staged rate reduction of a rate of duty set forth in subheading 6203.31.00 of the Harmonized Tariff Schedule of the United States that is proclaimed by the President shall also apply to the corresponding rate of duty set forth in heading 9902.51.11 of such Schedule, as added by paragraph (1).

"(b) CERTAIN WORSTED WOOL FABRICS WITH AVERAGE FIBER DIAMETERS OF 18.5 MICRON OR LESS-

"(1) IN GENERAL- Subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States is amended by inserting in numerical sequence the following new heading:

"` 9902.51.12 Fabrics, of worsted wool, with average fiber diameters of 18.5 micron or less, all the foregoing certified by the importer as suitable for use in making suits, suit-type jackets, or trousers (provided for in subheading 5111.11.70, 5111.19.60, 5112.11.20, or 5112.19.90) 6% No change No change On or before 12/31/2003 '."

Note that the statute requires that the importer certify the fabric as suitable for use in making suits, suit-type jackets, or trousers, but did not specify that it be used in making such apparel. This is reflected in Notes 15 and 16 to Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States (2014). Which stipulate that the fabrics be --

"for the benefit of persons who cut and sew men's and boys' worsted wool suits and suit-like jackets and trousers in the United States"

and

"certified by the importer as suitable for use in making men's and boys' suits (as defined in U.S. note 13 to this subchapter), suit-type jackets, or trousers. . ."

Paragraph 3 of Section 4002(b) of the Textile Trade Extension Act of 2004 (Public Law 108-429; 118 Stat. 2600) which created the TRQ at 9902.51.16 of the 2014 HTS states --

"NOTE 17- The U.S. Notes for subchapter II of chapter 99 of the Harmonized Tariff Schedule of the United States are amended by adding at the end the following new Note:

"17. (a) The aggregate quantity of worsted wool fabric entered under subheading 9902.51.16 shall be limited to 2,000,000 square meter equivalents in calendar year 2005 and each calendar year thereafter, allocated in accordance with section 501(e) of the Trade and Development Act of 2000 for the benefit of persons who weave worsted wool fabric suitable for use in men's and boys' suits."

The statute merely requires that the importer be a manufacturer of worsted wool fabric suitable for use in men's and boys' suits, not that it be the manufacturer of the fabric that was imported. This is reflected in Note 17 to Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States (2014). Which stipulates that the fabrics be --

"for the benefit of persons who weave worsted wool fabric suitable for use in men's and boys' suits"

and

"certified by the importer as suitable for use in making men's and boys' suits (as defined in U.S. note 13 to this subchapter), suit-type jackets, or trousers. . ."

As regard the TRQs for apparel manufacturers, the regulation, as well as the text of the preamble, could be read to create a linkage between imports and manufacturing, with "credit" given for only those imports that correspond to manufactured product in that calendar year. This would be incorrect.

There are many reasons why the square meters of fabric imported may not match the square meters of apparel manufactured, for example, due to waste or spoilage or sample-book making. Imports near the end of one year might be reflected in production early in the following year. Furthermore, in the case of some of the imports, the apparel manufacturer who enjoyed the duty savings under the TRQ subsequently sold some of the fabric to other domestic U.S. manufacturer of suits, suit-type jackets, and trousers. Had the duty suspensions not expired he would have saved the cost of duty on all those imports, therefore he should be able to claim an offsetting payment for all imports of

qualifying fabric, even if that specific fabric was not entirely consumed in manufacturing at his facility nor on his behalf.

In the case of the TRQ for domestic weavers, the TRQ was, historically used largely for fabric that was cut and sewn into apparel by customers of the importer, not the importer himself nor on his behalf.

In support of this I note that the preamble to the rule states (see page 12324, first column)
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"For the purpose of calculating the payment for each of the 2015-2019 calendar years, it will be assumed that 100% of the person's imports were covered by the lower duty. The rationale for this assumption is that under the wool TRQ that expired on December 31, 2014, persons that received licenses to import up to specific amounts of worsted wool fabric at reduced rates never used the entire license allotment, and the excess allotment was left unused. In those cases, because 100% of the person's imports were in fact covered by the available lower duty rate under the TRQ, the savings referenced in section 12315(e) should also apply to 100% of a person's imports"

Therefore, it is unnecessary to match up imports with production, nor even to quantify an eligible person's production, because, had the TRQ not expired, the person would have saved the tariff cost on all imports of qualifying fabric in the year preceding the year of the payment, regardless of whether all, or merely some, was used in manufacturing that year.

(b) On page 12330, in paragraph a(3)(ii) of Sec. 1471.13,

FOR

"Used by the eligible person in the U.S.

(A) In the case of wool fabric of the kind described in subheadings 9902.51.11 or 9902.51.15 of the HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys; or

(B) In the case of wool fabric of the kind described in subheading 9902.51.16 of the HTS, was used in manufacturing."

READ

"Certified by the importer as suitable for use in making men's and boys' suits (as defined in U.S. Note 13 to Subchapter II of Chapter 99 of the Harmonized Tariff Schedule of the United States (20141)), suit-type jackets, or trousers.

(A) In the case of wool fabric of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, imported, directly or indirectly, by a person who cuts and sews in the United States such clothing; or

(B) In the case of wool fabric of the kind described in subheading 9902.51.16 of the 2014 HTS, imported, directly or indirectly, by a person who weaves in the United States worsted wool fabric suitable for use in such clothing."

JUSTIFICATION

Same as (2)(a) above.

(c) On page 12330, in paragraph d(2)(i) of Sec. 1471.13,

FOR

"Specific business information--(i) Imports and production.--An eligible person shall, for the entire calendar year immediately preceding the payment, report the actual dollar value and the actual quantity of

(A) Imports into the U.S. of qualifying worsted wool fabric (square meters); and

(B) The qualifying worsted wool fabric used by the eligible person in the U.S.

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, to produce worsted wool suits, suit-type jackets and trousers for men and boys (units); or

(2) In the case of wool of the kind described in subheading 9902.51.16 of the 2014 HTS, such wool that was manufactured (square meters)."

READ

"Specific business information--(i) Imports and production.--An eligible person shall--

(A) For the entire calendar year immediately preceding the payment, report the actual dollar value and the actual quantity of imports into the U.S. of qualifying worsted wool fabric (square meters); and

(B) Certify that, in the year of the payment, the eligible person continues to be a manufacturer in the United States.

(1) In the case of wool of the kind described in subheadings 9902.51.11 or 9902.51.15 of the 2014 HTS, a manufacturer in the United States of worsted wool suits, suit-type jackets and trousers for men and boys; or

(2) In the case of wool of the kind described in subheading 9902.51.16 of the 2014 HTS, of a manufacturer in the United States of worsted wool fabric suitable for use in producing worsted wool suits, suit-type jackets and trousers for men and boys."

JUSTIFICATION

Same as 2(a) above.

(d) On page 12331, in paragraph d(2)(ii)(C) of Sec. 1471.13,

FOR

"Affirmation. An eligible person shall annually affirm in the affidavit that, in the calendar year immediately preceding the payment, in the U.S., the eligible person:

- (1) Directly or indirectly imported the qualifying worsted wool fabric into the U.S.;
- (2) Used that fabric to produce in the U.S. worsted wool suits, suit jackets, and trousers for men and boys (or, in the case of qualifying worsted wool fabric of the kind described in the 2014 HTS subheading 9902.51.16, for manufactured in the U.S.); and. . ."

READ

"Affirmation. An eligible person shall annually affirm in the affidavit that, in the calendar year immediately preceding the payment, in the U.S., the eligible person:

- (1) Directly or indirectly imported the qualifying worsted wool fabric into the U.S.;
- (2) Produced in the U.S. worsted wool suits, suit jackets, and trousers for men and boys (or, in the case of qualifying worsted wool fabric of the kind described in the 2014 HTS subheading 9902.51.16, manufactured in the U.S. worsted wool fabric suitable for use in production of suits, suit-type jackets, and trousers for men and boys); and. . ."

JUSTIFICATION

Same as 2(a) above.

(e) On page 12331, in paragraph d(3)(i)(A) of Sec. 1471.13,

FOR

"In general. When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, and the annual dollar value and quantity of the qualifying worsted wool fabric that was cut and sewn, an eligible person may either have cut and sewn the wool on its own behalf or had another person cut and sew the wool on behalf of the eligible person, provided the eligible person owned the wool at the time it was cut and sewn."

READ

"In general. When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, and certifying that the eligible person is a manufacturer in the United States of worsted wool suits, suit-type jackets, or trousers for men and boys, an eligible person may either have cut and sewn the wool on its own behalf or had another person cut and sew the wool on behalf of the eligible person, provided the eligible person owned the wool at the time it was cut and sewn."

JUSTIFICATION

Same as 2(a) above.

(f) On page 12331, in paragraph d(3)(ii)(A) of Sec. 1471.13,

FOR

"In general. When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, and the annual dollar value and quantity of the qualifying worsted wool fabric that was manufactured, an eligible person may either have manufactured the wool on its own behalf or had another person manufacture the wool, provided the eligible person owned the wool at the time of manufacture."

READ

"In general. When reporting the annual dollar value and quantity of imported qualifying worsted wool fabric, and certifying that the eligible person is a weaver in the United States of worsted wool fabric suitable for use in the production of suits, suit-type jackets, and trousers for men and boys, an eligible person may either have manufactured the wool on its own behalf or had another person manufacture the wool, provided the eligible person owned the wool at the time of manufacture."

JUSTIFICATION

Same as 2(a) above.

In addition to these suggested modification to the Rule, there are errors in the two simple examples in the preamble

On page 12324,

FOR

"The first example applies to a payment in 2017. Under the TRQ that expired on December 31, 2014, worsted wool fabrics entering the United States under HTS subheadings 9902.51.15 and 9902.51.16 were assessed zero duty, and worsted wool fabrics from Oman entering under 9902.51.11 were assessed a 10% duty. Starting on January 1, 2017, assume that imports entering the United States of worsted wool fabrics previously described under HTS subheadings 9902.51.15 and 9902.51.16 (but in 2017 actually entering under a different HTS subheading, because of the expiration of the particular subheadings under HTS chapter 99) are assessed a 20% duty, and worsted wool fabrics from Oman previously described under 9902.51.11 are assessed a 10% duty.

"A person imports 200 square meters of worsted wool fabric in 2017, 100 square meters of which is of the kind described by HTS subheadings 9902.51.15 and 9902.51.16, and the remaining 100 square meters is of the kind described in HTS subheading 9902.51.11, imported from Oman. The person reports a dollar value of \$1 per square meter. For the 100 square meters of worsted wool described under HTS subheadings 9902.51.15 and 9902.51.16, the calculation would be 0.20 (20% converted to a numeric value), which is the duty rate in 2016, minus 0 (2014 duty rate, 0%, converted to a numeric value), multiplied by 100 (dollar value), which would equal \$20 $((0.20-0) \times 100)$. For the 100 square meters of worsted wool fabric described under HTS subheading 9902.51.11 and imported from Oman, the calculation would be 0.10 (10% converted to a numeric value), the duty rate in 2015, the calendar year immediately preceding the payment, minus 0.10 (10%, the 2016 duty rate when Oman is the country of origin) multiplied by 100 (dollar value), which would equal \$0 $((0.10-0.10) \times 100)$.

READ

"The first example applies to a payment in 2017. Under the TRQ that expired on December 31, 2014, worsted wool fabrics entering the United States under HTS subheadings 9902.51.15 and 9902.51.16 were assessed zero duty, and worsted wool fabrics from Oman entering under 9902.51.11 were assessed a 10% duty. Starting on January 1, 2016, assume that imports entering the United States of worsted wool fabrics previously described under HTS subheadings 9902.51.15 and 9902.51.16 (but in 2016 actually entering under a different HTS subheading, because of the expiration of the particular subheadings under HTS chapter 99) are assessed a 20% duty, and worsted wool fabrics from Oman previously described under 9902.51.11 are assessed a 10% duty.

"A person imports 200 square meters of worsted wool fabric in 2016, 100 square meters of which is of the kind described by HTS subheadings 9902.51.15 and 9902.51.16, and the remaining 100 square meters is of the kind described in HTS subheading 9902.51.11, imported from Oman. The person reports a dollar value of \$1 per square meter. For the 100 square meters of worsted wool described under HTS subheadings 9902.51.15 and 9902.51.16, the calculation would be 0.20 (20% converted to a numeric value), which is the duty rate in 2016, minus 0 (2014 duty rate, 0%, converted to a numeric value), multiplied by 100 (dollar value), which would equal \$20 $((0.20-0) \times 100)$. For the 100 square meters of worsted wool fabric described under HTS subheading 9902.51.11 and imported from Oman, the calculation would be 0.10 (10% converted to a numeric value), the duty rate in 2016, the calendar year immediately preceding the payment, minus 0.10 (10%, the 2016 duty rate when Oman is the country of origin) multiplied by 100 (dollar value), which would equal \$0 $((0.10-0.10) \times 100)$.

AND FOR

"A person imports 200 square meters of worsted wool fabric in 2015, 100 square meters of which is of the kind previously described by HTS subheadings 9902.51.15 and 9902.51.16, and the remaining 100 square meters is of the kind previously described in

HTS subheading 9902.51.11 imported from Oman. The person reports a dollar value of \$1 per square meter. For the 100 square meters of worsted wool under HTS subheadings 9902.51.15 and 9902.51.16, the calculation would be 0.25 (25% converted to a numeric value), which is the 2015 higher duty proxy used when the calendar year immediately preceding the payment is 2014, minus 0 (2014 duty rate, 0%, converted to a numeric value), multiplied by 100 (dollar value), which would equal \$25 $((0.25-0) \times 100)$. For the 100 square meters of worsted wool fabric under HTS subheading 9902.51.11 imported from Oman, the calculation would be 0.20 (20% converted to a numeric value), the 2015 higher duty proxy when the calendar year immediately preceding the payment is 2014, minus 0.10 (10%, the 2014 duty rate when Oman is the country of origin) multiplied by 100 (dollar value), which would equal \$10 $((0.20-0.10) \times 100)$."

READ

"A person imports 200 square meters of worsted wool fabric in 2014, 100 square meters of which is of the kind previously described by HTS subheadings 9902.51.15 and 9902.51.16, and the remaining 100 square meters is of the kind previously described in HTS subheading 9902.51.11 imported from Oman. The person reports a dollar value of \$1 per square meter. For the 100 square meters of worsted wool under HTS subheadings 9902.51.15 and 9902.51.16, the calculation would be 0.25 (25% converted to a numeric value), which is the 2015 higher duty proxy used when the calendar year immediately preceding the payment is 2014, minus 0 (2014 duty rate, 0%, converted to a numeric value), multiplied by 100 (dollar value), which would equal \$25 $((0.25-0) \times 100)$. For the 100 square meters of worsted wool fabric under HTS subheading 9902.51.11 imported from Oman, the calculation would be 0.20 (20% converted to a numeric value), the 2015 higher duty proxy when the calendar year immediately preceding the payment is 2014, minus 0.10 (10%, the 2014 duty rate when Oman is the country of origin) multiplied by 100 (dollar value), which would equal \$10 $((0.20-0.10) \times 100)$."

JUSTIFICATION

To conform to the Rule.

3. Wool, Yarn, Wool Fiber, and Wood Top Duty Compensation Payment.

(a) On page 12331, in paragraph (a)(3) of Sec. 1471.14,

FOR

"Qualifying wool. The term ``qualifying wool" means imported wool yarn of the kind described in subheading 9902.51.13 of the 2014 HTS, and imported wool fiber or wool top of the kind described in subheading 9902.51.14 of the 2014 HTS, that, during the calendar year immediately preceding the payment was

- " (i) Imported, directly or indirectly, by an eligible person (or a successor-in-interest) into the U.S.; and
- " (ii) Manufactured by the eligible person in the U.S."

READ

"Qualifying wool and qualifying domestic wool product.

"(i) Qualifying wool. The term ``qualifying wool" means imported wool yarn of the kind described in subheading 9902.51.13 of the 2014 HTS, and imported wool fiber or wool top of the kind described in subheading 9902.51.14 of the 2014 HTS, that, during the calendar year immediately preceding the payment was imported, directly or indirectly, by an eligible person (or a successor-in-interest) into the U.S."

(ii) "Qualifying domestic wool product. The term ``qualifying domestic wool product" means yarn or fabric produced from imported wool yarn of the kind described in subheading 9902.51.13 of the 2014 HTS, or from imported wool fiber or wool top of the kind described in subheading 9902.51.14 of the 2014 HTS, that, during the calendar year immediately preceding the payment was manufactured by the eligible person in the U.S."

JUSTIFICATION

The duty suspension at 9902.51.13 and 9902.51.14 HTSUS were available to any importer. Section 12315 of the 2014 Farm Bill provides for compensation payments equal to what a "manufacturer or successor-in-interest would have saved during the calendar year of the payment if the suspension of duty on wool fabrics were in effect". Therefore there are two distinct kinds of qualifying wool. Imported fiber, top, and yarn ("qualifying wool") AND domestically manufactured product (i.e., worsted wool yarn or fabric made in the U.S.). The payments are made to a manufacturer of the domestic wool product (yarn or fabric) who imported, directly or indirectly, qualifying wool (fiber, top, or yarn).

(b) On page 12331, in paragraph (d) of Sec. 1471.14,

FOR

"Annual affidavit required--(1) In general. An eligible person applying for a payment under this section shall comply with all applicable reporting requirements described in this section and Sec. 1471.10.

" (2) Specific business information--(i) Imports and production. An eligible person shall, for the calendar year immediately preceding the payment, report the actual dollar value and the actual quantity of:

- " (A) Imports into the U.S. of qualifying wool by the eligible person; and
- " (B) Such qualifying wool that was manufactured in the U.S. by the eligible person.

READ

"Annual affidavit required--(1) In general. An eligible person applying for a payment under this section shall comply with all applicable reporting requirements described in this section and Sec. 1471.10.

" (2) Specific business information--(i) Imports and production. An eligible person shall --:

" (A) For the calendar year immediately preceding the payment, report the actual dollar value and the actual quantity of imports into the U.S. of qualifying wool by the eligible person; and

" (B) Affirm that the eligible person manufactured qualifying domestic wool product in the U.S. using imported qualifying wool."

JUSTIFICATION

As in (3)(a) above to distinguish the qualifying imports as distinct from the qualifying manufactured domestic product.

Also, Sec. 12315 of the 2014 Farm Bill merely requires that the beneficiary be a manufacturer who imported, directly or indirectly, and provides offsetting compensation for the duty costs incurred due to the expiration of the Chapter 99 provisions. The Department does not need to know the volume of a manufacturer's production in the year of the claim. It is sufficient to know that the person was a manufacturer of qualifying domestic wool product and the value of the imports of qualifying wool. The regulation, as well as the text of the preamble, could be read to create a linkage between imports and manufacturing, with "credit" given for only those imports that correspond to manufactured product in that calendar year. This would be incorrect. There are many reasons why the kilograms of fiber, top, or yarn imported may not match the kilograms of yarn or fabric manufactured, for example, due to waste or spoilage or sample-book making. Furthermore, imports near the end of one year might be reflected in production early in the following year. In an extreme case, a manufacturer might suffer the loss of imported qualifying wool before he had the opportunity to use it in manufacturing (for example, in a warehouse fire). Had the duty suspensions not expired he would have saved the cost of duty on those imports, therefore he should be able to claim an offsetting payment, even though that specific qualifying wool was not all used in manufacturing, provided that he did some manufacturing of qualifying domestic product with qualifying imported wool.

(c) On page 12332, in paragraph (d)(2)(C) of Sec. 1471.14,

FOR

"Affirmation. An eligible person shall annually affirm in the affidavit that, in the calendar year immediately preceding the payment, the eligible person

- " (1) Directly or indirectly imported the qualifying wool into the U.S.;
- " (2) Manufactured the qualifying wool in the U.S.; and"

READ

"Affirmation. An eligible person shall annually affirm in the affidavit that, in the calendar year immediately preceding the payment, the eligible person

- " (1) Directly or indirectly imported the qualifying wool into the U.S.;

- " (2) Manufactured qualifying domestic wool product in the U.S. of imported qualifying wool; and"

JUSTIFICATION

Same as (3)(a) above.

(d) On page 12332, in paragraph (d)(3) of Sec. 1471.14,

FOR

"Manufacture of qualifying wool. When reporting the annual dollar value and quantity of imported qualifying wool, and the annual dollar value and quantity of the qualifying wool that was manufactured, an eligible person may either have manufactured the qualifying wool on its own behalf or had another person manufacture the qualifying wool, provided the eligible person owned the qualifying wool at the time of manufacture."

READ

"Manufacture of qualifying domestic wool product. When affirming that an eligible person was a manufacturers of qualifying domestic wool product from qualifying imported wool, an eligible person may either have manufactured the qualifying domestic wool product on its own behalf or had another person manufacture the qualifying domestic wool product, provided the eligible person owned the qualifying domestic wool product at the time of manufacture."

JUSTIFICATION

Same as (3)(a) above.

Thank you for your consideration of these comments.

Yours,



David Trumbull