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Committee on Rules of Origin

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**NOTIFICATION OF PREFERENTIAL RULES OF ORIGIN FOR
LEAST DEVELOPED COUNTRIES**

UNITED STATES

The following communication, dated 20 November 2018, is being circulated at the request of the delegation of United States.

Paragraph 4.3 of the 2015 Ministerial Decision on preferential rules of origin for least developed countries (WT/L/917/Add.1) requires preference-granting Members to notify preferential rules of origin as per the established procedures¹. In addition, as mandated by the Ministerial Decision, the Committee on Rules of Origin agreed, at its meeting of 2 March 2017, to a template for such notifications (G/RO/84).

Following such requirements, the following notification has been received from: United States.

A. BASIC INFORMATION

1)	Notifying member	United States
2)	Date of entering into force of Rules of origin and any substantive modification thereof	15 December 2016. Text of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4454): https://www.congress.gov/114/plaws/publ125/PLAW-114publ125.pdf Proclamation implementing the preference program: https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-30738.pdf
3)	Date of expiration of Rules of origin if applicable	31 December 2025. See Section 915(f) of the Trade Facilitation and Trade Enforcement Act of 2015. 19 U.S.C. 4454(f)
4)	Title of the preferential scheme for which legislation on Rules of origin is applicable	Nepal Trade Preference Program
5)	Authority(ies) granting the preferential treatment	President of the United States (www.whitehouse.gov)
6)	National authorities in charge of Rules of origin administration	Office of the U.S. Trade Representative (www.ustr.gov) Office of South Asia 1-202-395-9658 correspondence@ustr.eop.gov

¹ The relevant notification requirements are contained in Paragraph 2(d) of Annex 1 of the Transparency Mechanism for Preferential Trade Arrangements (WT/L/806) and in Paragraph 4 of Annex II of the Agreement on Rules of Origin.

B. INFORMATION ON RULES OF ORIGIN**I. BENEFICIARIES**

1) List of Beneficiaries	Nepal. See https://www.gpo.gov/fdsys/pkg/FR-2016-12-20/pdf/2016-30738.pdf .
2) Eligibility	Section 915(b)(1) of the Trade Facilitation and Trade Enforcement Act of 2015 (19 U.S.C. 4454(b)(1)); https://www.congress.gov/114/plaws/publ125/PLAW-114publ125.pdf

II. CRITERIA FOR DETERMINING SUBSTANTIAL TRANSFORMATION

1) General criteria, if applicable for all products	<p>The general rules of origin can be found in Trade Facilitation and Trade Enforcement Act of 2015, Section 915(c) (19 U.S.C. 4454(c)).</p> <p>"(c) Eligible articles</p> <p>(1) In general</p> <p>An article described in paragraph (2) may enter the customs territory of the United States free of duty.</p> <p>(2) Articles described</p> <p>(A) In general</p> <p>An article is described in this paragraph if-</p> <p>(i) (I) the article is the growth, product, or manufacture of Nepal; and</p> <p>(II) in the case of a textile or apparel article, Nepal is the country of origin of the article, as determined under section 102.21 of title 19, Code of Federal Regulations (as in effect on the day before 24 February 2016);</p> <p>(ii) the article is imported directly from Nepal into the customs territory of the United States;</p> <p>(iii) the article is classified under any of the following subheadings of the Harmonized Tariff Schedule of the United States (as in effect on the day before 24 February 2016):</p> <p>4202.11.00; 4202.12.21; 4202.12.29; 4202.12.40; 4202.12.60; 4202.12.81; 4202.12.89; 4202.21.60; 4202.21.90; 4202.22.15; 4202.22.40; 4202.22.45; 4202.22.60; 4202.22.70; 4202.22.81; 4202.22.89; 4202.29.50; 4202.29.90; 4202.31.60; 4202.32.40; 4202.32.80; 4202.32.91; 4202.32.93; 4202.32.99; 4202.91.00; 4202.91.90; 4202.92.08; 4202.92.15; 4202.92.20; 4202.92.31; 4202.92.33; 4202.92.39; 4202.92.45; 4202.92.60; 4202.92.91; 4202.92.93; 4202.92.94; 4202.92.97; 4202.99.90; 4203.29.50; 5701.10.90; 5702.31.20; 5702.49.20; 5702.50.40; 5702.50.59; 5702.91.30; 5702.91.40; 5702.92.90; 5702.99.15; 5703.10.20; 5703.10.80; 5703.90.00; 5705.00.20; 6117.10.60; 6117.80.85; 6214.10.10; 6214.10.20; 6214.20.00; 6214.40.00; 6214.90.00; 6216.00.80; 6217.10.85; 6301.90.00; 6308.00.00; 6504.00.90; 6505.00.08; 6505.00.15; 6505.00.20; 6505.00.25; 6505.00.30; 6505.00.40; 6505.00.50; 6505.00.60; 6505.00.80; 6505.00.90; 6506.99.30; 6506.99.60</p> <p>(iv) the President determines, after receiving the advice of the United States International Trade Commission in accordance with section 503(e) of the Trade Act of 1974 (19 U.S.C. 2463(e)), that the article is</p>
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		<p>not import-sensitive in the context of imports from Nepal; and</p> <p>(v) subject to subparagraph (C), the sum of the cost or value of the materials produced in, and the direct costs of processing operations performed in, Nepal or the customs territory of the United States is not less than 35% of the appraised value of the article at the time it is entered."</p> <p>Please note that following the enactment of the legislation authorizing the trade preferences, the U.S. Harmonized Tariff System was modified, and the number of tariff lines for which Nepal is exempt from customs duties increased to 77 8-digit tariff lines. These are the lines that appear above, not the original 66 lines.</p>
	(a) Definition of wholly obtained products	The statute that established the Nepal preferences does not provide a definition of "wholly obtained products" of Nepal. However, 19 U.S.C. 4454(c)(2)(A)(i) states that an eligible article is one that "is the growth, product, or manufacture of Nepal."
	(b) Describe the criteria for not-wholly produced products	The statute that established the Nepal preferences does not provide a definition of "wholly obtained products" of Nepal. However, 19 U.S.C. 4454(c)(2)(B) provides a list of activities that do not confer origin.
	(c) Insert the formula for calculating <i>ad valorem</i> percentage	<p>The formula for calculating the regional value content of the article can be found in 19 USC 4454 (c)(2)(A)(v): "subject to subparagraph (C), the sum of the cost or value of the materials produced in, and the direct costs of processing operations performed in, Nepal or the customs territory of the United States is not less than 35% of the appraised value of the article at the time it is entered."</p> <p>Subparagraph (C): "Limitation on United States Cost. —For purposes of subparagraph (A)(v), the cost or value of materials produced in, and the direct costs of processing operations performed in, the customs territory of the United States and attributed to the 35-percent requirement under that subparagraph may not exceed 15 percent of the appraised value of the article at the time it is entered."</p>
2) Product specific rules of origin, where applicable		
	(a) Insert the link where the complete list of product specific rules of origin can be found.	<p>19 U.S.C. 4454(c)(2)(A)(i)(II) states that "in the case of a textile or apparel article, Nepal is the country of origin of the article, as determined under section 102.21 of title 19, Code of Federal Regulations (as in effect on the day before 24 February 2016)".</p> <p>Those regulations can be found at the following URL: https://www.ecfr.gov/cgi-bin/text-idx?SID=ba149088a98c53f1ab43460b34861584&mc=true&node=se19.1.102_121&rgn=div8</p>
	(b) Insert the formula for calculating <i>ad valorem</i> percentage, when applied for product specific rule	Not applicable.
3)	Definition of non-originating material and originating material, if any	Not applicable.
4)	List of insufficient working process, if any	19 U.S.C. 4454(c)(2)(B) provides a list of activities that do not confer origin.
5)	Rules for application of cumulation and related procedures if any	Please see response to 1(c), above.
6)	Any other information that member deems necessary	None.

III. DOCUMENTARY REQUIREMENTS

1) Certificate of origin and other proofs of origin		
	(a) Requirement for certificate of origin and/or any other proof of origin, if any	A certificate of origin is not required, but when the article is not wholly the growth, product, or manufacture of Nepal, the exporter of the merchandise or other appropriate party having knowledge of the relevant facts shall be prepared to submit a declaration setting forth all pertinent detailed information concerning the production or manufacture of the merchandise. See 19 CFR 10.173: https://www.ecfr.gov/cgi-bin/text-idx?SID=61efe140c8a30e01ae54661a8c33c917&mc=true&node=se19.1.10_1173&rgn=div8
	(b) Authority to be designated for issuance of certificate of origin	See subsection (a) above.
	(c) Prescribed form of Certificate of origin and/or any other proof of origin	See subsection (a) above.
	(d) Any other procedures applied for certificate of origin and/or any other proof of origin, if any	Not applicable.
2) Direct shipment		
	(a) Rules applicable for direct shipment, if any	In order to qualify for preferential treatment, the eligible article must be imported directly from Nepal to the United States. (See 19 U.S.C. 4454(c)(2)(ii). The term "imported directly" is defined at 19 CFR 10.175.) Under Section 915 (c)(3) of the legislation (see Subsection A.2, above for hyperlink), the Commissioner of U.S. Customs and Border Protection shall conduct quarterly verifications to ensure that textile and apparel goods receiving preferential treatment are not being unlawfully transhipped to the United States.
	(b) Documentary requirement for proof of direct shipment including when the transport of consignment involves transit through one or more intermediate countries, if any	The documentary requirements can be found at 19 CFR 10.175. In general, if the shipment from Nepal to the United States passes through the territory of any other country, the merchandise in the shipment cannot enter into the commerce of any other country while en route to the United States, and the invoice, bills of lading, and other shipping documents must show the United States as the final destination; or if the goods are shipped from the beneficiary developing country to the United States through a free trade zone in a beneficiary developing country, the merchandise cannot enter into the commerce of the country maintaining the free trade zone.

IV. VERIFICATION AND PENALTIES

1)	Procedure for verification of proofs of origin	The regulations related to examination, sampling, and testing of merchandise can be found at 19 CFR 151.1 through 151.16. https://www.ecfr.gov/cgi-bin/text-idx?SID=6a6d50ad25a755802a02b7b576771fdc&mc=true&node=pt19.2.151&rgn=div5
2)	Penalties for fraud and false declarations	In general, if a claim for preference under the Nepal Preference Program is incorrect, the importer's claim of preference will be denied, and the importer must pay the applicable duty. If a Customs and Border Protection Officer finds any package that contains an article not specified on the invoice, and there is reason to believe the article was omitted from the invoice by fraud, gross negligence, negligence on the part of the seller, shipper, owner, or agent, a monetary penalty may be imposed, or in some

		cases, the merchandise may be seized or forfeited. (See e.g., 19 U.S.C. 1592, 19 CFR 162.) http://www.gpo.gov/fdsys/pkg/USCODE-2016-title19/pdf/USCODE-2016-title19-chap4-subtitleIII-partV-sec1592.pdf https://www.ecfr.gov/cgi-bin/text-idx?SID=6a6d50ad25a755802a02b7b576771fdc&mc=true&n ode=pt19.2.162&rgn=div5
3)	Authorities and procedures for appeal in the case of dispute on verification	An importer may disagree with the dutiable status after the entry has been liquidated. A decision at this stage of the entry transaction is requested by filing a protest and application for further review on CBP Form 19: https://www.cbp.gov/sites/default/files/documents/CBP_Form_19.pdf
4)	Requirement for preserving the documents related to issuance of certificate of origin	The Nepal Preference Program does not include a certificate of origin.
5)	Any other relevant information	The following documents provide additional information on the Nepal Trade Preferences. WT/COMTD/PTA/3/1: Factual presentation - United States trade preferences for Nepal - Report by the Secretariat WT/COMTD/N/52: Notification of preferential trade arrangement - United States

V. REFERENCE TEXTS

(a)	The legislative texts in one of the official WTO languages containing the preferential rules of origin applicable under a PTA granted under the Decision on Measures in Favour of Least-Developed Countries (Annex F of the Hong Kong Ministerial Declaration)	See Subsection B.I.2 above.
(b)	The full text of the administrative regulations concerning modalities for issuance, acceptance, retrospective issuance and replacement of certificates of origin or any equivalent declarations to be made, including any requirements related to stamps to be used along with notification of stamps	See Subsection III.1 above.
(c)	The full text and related administrative regulations of the modalities for the proof of movement of the consignment of the goods from the beneficiary countries to preference-giving countries including transit through third countries	See Subsection III.2 above.
(d)	The full texts of the modalities of the verification procedures and related penalties	See Section IV above.