

Presidential Documents

Title 3—

Proclamation 7616 of October 31, 2002

The President

To Implement the Andean Trade Promotion and Drug Eradication Act

By the President of the United States of America

A Proclamation

1. Section 3103 of the Andean Trade Promotion and Drug Eradication Act (title XXXI of the Trade Act of 2002, Public Law 107–210) (ATPDEA) amended section 204(b) of the Andean Trade Preference Act (19 U.S.C. 3203(b)) (ATPA) to provide that certain preferential tariff treatment may be provided to eligible articles that are the product of any country that the President designates as an “ATPDEA beneficiary country” pursuant to section 204(b)(6)(B) of the ATPA, as amended, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the North American Free Trade Agreement (NAFTA).

2. Section 3103(a)(2) of the ATPDEA amended section 204(b) of the ATPA to authorize the President to proclaim duty-free treatment for any article described in section 204(b)(1)(A) through (D) of the ATPA, as amended, that is the growth, product, or manufacture of an ATPDEA beneficiary country, that is imported directly into the customs territory of the United States from an ATPDEA beneficiary country, and that meets the requirements of section 204 of the ATPA, as amended, if the President determines that such article is not import-sensitive in the context of imports from ATPDEA beneficiary countries, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

3. Section 3103(a)(2) of the ATPDEA amended section 204(b) of the ATPA to provide that eligible textile and apparel articles of a designated ATPDEA beneficiary country shall enter the United States free of duty and free of quantitative limitations, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

4. Section 3103(a)(2) of the ATPDEA amended section 204(b) of the ATPA to provide that eligible tuna products of a designated ATPDEA beneficiary country shall enter the United States free of duty and free of quantitative limitations, provided that the President determines that the country has satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA.

5. Section 203(e)(2)(A) of the ATPA (19 U.S.C. 3202(e)(2)(A)) requires the President to publish in the **Federal Register** notice of proposed action under section 203(e)(1) of the ATPA (19 U.S.C. 3202(e)(1)) at least 30 days prior to taking such action. Section 212(e)(2)(A) of the Caribbean Basin Economic Recovery Act (CBERA) (19 U.S.C. 2702(e)(2)(A)) requires the President to publish in the **Federal Register** notice of proposed action under section 212(e)(1) of the CBERA (19 U.S.C. 2702(e)(1)) at least 30 days prior to taking such action.

6. In order to implement the tariff treatment provided under the ATPDEA, it is necessary to modify the Harmonized Tariff Schedule of the United States (HTS).

7. Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) (1974 Trade Act) authorizes the President to embody in the HTS the substance of the relevant provisions of that Act, and of other acts affecting import treatment, and actions thereunder, including the removal, modification, continuance, or imposition of any rate of duty or other import restriction.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including section 604 of the 1974 Trade Act, do proclaim as follows:

(1) I have designated the following countries as ATPDEA beneficiary countries pursuant to section 204(b)(6)(B) of the ATPA, as amended, and have determined that these countries have satisfied the requirements of section 204(b)(5)(A)(ii)(I) of the ATPA, as amended, relating to the implementation of procedures and requirements similar to those in chapter 5 of the NAFTA:

Bolivia

Colombia

Ecuador

Peru.

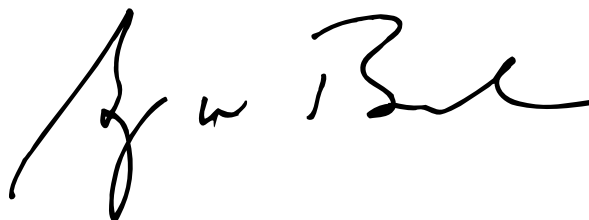
(2) In order to provide for the preferential treatment provided for in section 204(b) of the ATPA, as amended, the HTS is modified as provided in the annex to this proclamation.

(3) The functions of the President under section 203(e)(2)(A) of the ATPA and section 212(e)(2)(A) of the CBERA with respect to publishing notice of this proclamation are delegated to the United States Trade Representative.

(4) Any provisions of previous proclamations and Executive Orders that are inconsistent with this proclamation are superseded to the extent of such inconsistency.

(5) This proclamation is effective on the date of signature.

IN WITNESS WHEREOF, I have hereunto set my hand this thirty-first day of October, in the year of our Lord two thousand two, and of the Independence of the United States of America the two hundred and twenty-seventh.

A handwritten signature in black ink, appearing to read "G. W. Bush", is written in a cursive style.

ANNEX

Effective with respect to goods entered, or withdrawn from warehouse for consumption, on or after the date of signature, the Harmonized Tariff Schedule of the United States (HTS) is modified as follows:

A. General note 3(c)(i) is modified by deleting "Andean Trade Preference Act.....J or J*" and by inserting in lieu thereof "Andean Trade Preference Act or Andean Trade Promotion and Drug Eradication Act.....J, J* or J+".

B. General note 11(d) is modified by—

(i) deleting from subdivision (i) of such note the phrase "which are subject to textile agreements" and by inserting in lieu thereof "which were not eligible articles for purposes of this note on January 1, 1994";

(ii) deleting from subdivision (ii) of such note the phrase ", except goods of subheadings 6402.20.00 and 6405.90.20 of the HTS" and by inserting in lieu thereof "not designated as of August 6, 2002, as eligible for purposes of the U.S. Generalized System of Preferences under title V of the Trade Act of 1974";

(iii) deleting from subdivision (iii) of such note the semicolon after the word "containers" and by inserting in lieu thereof the phrase ", other than tuna in foil or other flexible airtight containers weighing with their contents not more than 6.8 kg each";

(iv) deleting the text of subdivision (vi) of such note and by inserting in lieu thereof the following:

"handbags, luggage, flat goods, work gloves and leather wearing apparel that were not designated on August 5, 1983, as eligible articles for purposes of the U.S. Generalized System of Preferences under title V of the Trade Act of 1974;"

(v) deleting the period at the end of subdivision (ix) of such note and by inserting a semicolon in lieu thereof, and by inserting the following new clause immediately below such subdivision:

"provided that, in the case of goods described in subdivisions (ii), (iv), (v) and (vi), the President may proclaim duty-free treatment for any article that is the growth, product or manufacture of a country both listed in subdivision (a) of this note and enumerated below, where such article is imported directly into the customs territory of the United States from a designated Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary country that satisfies the customs requirements of the ATPDEA and is enumerated below, if the President determines that such article is not import-sensitive in the context of imports from a country or countries enumerated below:

Bolivia
Colombia
Ecuador
Peru

Such goods shall be designated in the "Special" subcolumn following the rate of duty of "Free" by the symbol "J+" in parentheses. Goods described in subdivisions (i), (iii), (vii), (viii) and (ix) of this note and the product of a country enumerated herein shall not be eligible for such duty-free treatment under the terms of this note." and

(vi) deleting subdivision (e) of such note.

C. The following provisions of the HTS are each modified by inserting, in the "Special" subcolumn after the duty rate of "free", in alphabetical sequence in the parenthetical expression the symbol "J+":

2709.00.10	2710.11.15	2710.11.25	2710.19.05	2710.19.15
2709.00.20	2710.11.18	2710.11.45	2710.19.10	2710.19.21

2710.19.22	6116.10.44	6403.91.90	9101.29.70	9108.90.50
2710.19.23	6116.10.48	6403.99.20	9101.29.80	9108.90.60
2710.19.30	6116.10.55	6403.99.40	9101.99.40	9108.90.70
2710.19.35	6116.10.65	6403.99.60	9102.11.10	9108.90.80
2710.19.40	6116.92.64	6403.99.75	9102.11.25	9108.90.90
2710.19.45	6116.92.88	6403.99.90	9102.11.30	9108.90.95
2710.91.00	6116.93.64	6404.11.20	9102.11.45	9110.11.00
2710.99.05	6116.93.88	6404.11.40	9102.11.50	9110.12.00
2710.99.10	6116.99.48	6404.11.50	9102.11.65	9110.19.00
2710.99.16	6216.00.17	6404.11.60	9102.11.70	9111.10.00
2710.99.21	6216.00.19	6404.11.70	9102.11.95	9111.20.20
2710.99.31	6216.00.21	6404.11.80	9102.19.20	9111.20.40
2710.99.32	6216.00.24	6404.19.15	9102.19.40	9111.80.00
2710.99.39	6216.00.26	6404.19.25	9102.19.60	9111.90.40
2710.99.45	6216.00.38	6404.19.30	9102.19.80	9111.90.50
4202.11.00	6216.00.54	6404.19.35	9102.21.10	9111.90.70
4202.12.20	6401.92.60	6404.19.40	9102.21.25	9113.10.00
4202.12.40	6402.19.05	6404.19.50	9102.21.30	9113.20.20
4202.12.60	6402.19.15	6404.19.60	9102.21.50	9113.20.40
4202.12.80	6402.19.50	6404.19.70	9102.21.70	9113.20.60
4202.19.00	6402.19.70	6404.19.80	9102.21.90	9113.20.90
4202.21.30	6402.19.90	6404.19.90	9102.29.02	9113.90.40
4202.21.60	6402.30.30	6404.20.20	9102.29.04	9113.90.80
4202.21.90	6402.30.60	6404.20.40	9102.29.10	9114.10.40
4202.22.15	6402.30.90	6404.20.60	9102.29.15	9114.30.40
4202.22.40	6402.91.40	6405.10.00	9102.29.20	9114.30.80
4202.22.45	6402.91.60	6405.20.30	9102.29.25	9114.40.20
4202.22.60	6402.91.70	6405.20.90	9102.29.30	9114.40.60
4202.22.80	6402.99.05	6405.90.90	9102.29.35	9114.90.15
4202.29.90	6402.99.10	6406.10.05	9102.29.40	9114.90.40
4202.31.60	6402.99.14	6406.10.10	9102.29.45	
4202.32.40	6402.99.18	6406.10.20	9102.29.50	
4202.32.80	6402.99.30	6406.10.25	9102.29.55	
4202.32.95	6402.99.60	6406.10.30	9102.29.60	
4202.91.00	6402.99.70	6406.10.35	9102.91.20	
4202.92.15	6403.19.10	6406.10.40	9102.91.40	
4202.92.20	6403.19.30	6406.10.45	9102.91.80	
4202.92.30	6403.19.40	6406.10.50	9102.99.20	
4202.92.45	6403.19.50	9101.11.40	9102.99.40	
4202.92.60	6403.40.30	9101.11.80	9102.99.60	
4202.92.90	6403.40.60	9101.19.40	9102.99.80	
4202.99.90	6403.51.30	9101.19.80	9108.11.40	
4203.10.40	6403.51.60	9101.21.10	9108.11.80	
4203.29.08	6403.51.90	9101.21.30	9108.12.00	
4203.29.18	6403.59.15	9101.21.80	9108.19.40	
4602.10.21	6403.59.30	9101.29.10	9108.19.80	
4602.10.22	6403.59.60	9101.29.20	9108.90.10	
4602.10.25	6403.59.90	9101.29.30	9108.90.20	
4602.10.29	6403.91.30	9101.29.40	9108.90.30	
6116.10.17	6403.91.60	9101.29.50	9108.90.40	

D. U.S. note 7 to subchapter II of chapter 98 is modified by inserting the following new subdivision in sequence:

- “(c) For purposes of heading 9802.00.80, duty-free treatment shall be accorded only to textile luggage assembled in a designated Andean Trade Promotion and Drug Eradication Act beneficiary country enumerated in U.S. note 1 to subchapter XXI of this chapter from fabric wholly formed and cut in the United States, from yarns wholly formed in the United States.”

E. Chapter 98 of the HTS is further modified by adding at the end thereof the following new subchapter XXI, as set forth below:

“SUBCHAPTER XXI

GOODS ELIGIBLE FOR SPECIAL TARIFF BENEFITS UNDER THE
ANDEAN TRADE PROMOTION AND DRUG ERADICATION ACT

U.S. Notes

1. The tariff treatment provided in this subchapter shall be accorded only to goods that are described in the subheadings of this subchapter and imported directly into the customs territory of the United States from a designated Andean Trade Promotion and Drug Eradication Act (ATPDEA) beneficiary country that satisfies the customs requirements of the ATPDEA and is enumerated below. The following countries have been designated by the President as ATPDEA beneficiary countries that satisfy the customs requirements of the ATPDEA and, therefore, are to be afforded the tariff treatment provided for in this subchapter:

Bolivia
Colombia
Ecuador
Peru

2. (a) For purposes of eligibility for duty-free treatment under subheading 9821.01.01, such tuna--
- (i) must be harvested by United States vessels or by ATPDEA beneficiary country vessels, and
 - (ii) must have been prepared or preserved in any manner in an ATPDEA beneficiary country enumerated in note 1 to this subchapter.
- Such tuna shall enter the United States free of any quantitative restrictions.
- (b) The term “United States vessels” includes any vessel having a certificate of documentation with a fishery endorsement under chapter 121 of title 46, United States Code; and the term “ATPDEA beneficiary country vessels” includes any vessel--
- (i) which is registered or recorded in an ATPDEA beneficiary country enumerated in note 1 to this subchapter,
 - (ii) which sails under the flag of such an ATPDEA beneficiary country,
 - (iii) which is at least 75 percent owned by nationals of such an ATPDEA beneficiary country or by a company having its principal place of business in such an ATPDEA beneficiary country, of which the manager or managers, chairman of the board of directors or of the supervisory board and the majority of the members of such boards are nationals of such an ATPDEA beneficiary country and of which, in the case of a company, at least 50 percent of the capital is owned by such an ATPDEA beneficiary country or by public bodies or nationals of an ATPDEA beneficiary country;
 - (iv) of which the master and officers are nationals of such an ATPDEA beneficiary country; and

- (v) of which at least 75 percent of the crew are nationals of such an ATPDEA beneficiary country.
3. (a) Except as provided in this note, textile and apparel articles described in subheadings 9821.11.01 through 9821.11.25, inclusive, of this subchapter that are imported directly into the customs territory of the United States from a designated ATPDEA beneficiary country enumerated in U.S. note 1 to this subchapter shall be eligible to enter free of duty and free of any quantitative limitations, restrictions or consultation levels except as provided in this subchapter, under the terms of the provisions set forth in such subheadings and applicable legal notes, as indicated by the rate of duty of "Free" in the "Special" subcolumn for such provisions.
- (b) For purposes of subheading 9821.11.16, goods entered under this provision must be certified, by a competent authority of a designated ATPDEA beneficiary country enumerated in U.S. note 1 to this subchapter, as eligible products of such country, in accordance with requirements established by the appropriate U.S. government authority.
- (c) For purposes of subheading 9821.11.19, imports of brassieres of a producer or an entity controlling production, during the 12-month period beginning on October 1, 2003, and during each of the two succeeding 12-month periods and the time period beginning October 1, 2006 and ending December 31, 2006, shall be eligible for preferential treatment under this subheading only if the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of all such articles of that producer or entity that are entered and eligible during the preceding 12-month period is at least 75 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained in all such articles of that producer or entity that are entered and eligible under this subheading during the preceding 12-month period. If the Customs Service finds that a producer or an entity controlling production has not satisfied such requirement in a 12-month period, then all such apparel articles of that producer or entity shall be ineligible for preferential treatment under this subheading during any succeeding 12-month period until the aggregate cost of fabrics (exclusive of all findings and trimmings) formed in the United States that are used in the production of such articles of that producer or entity entered during the preceding 12-month period is at least 85 percent of the aggregate declared customs value of the fabric (exclusive of all findings and trimmings) contained all such articles of that producer or entity that are entered and eligible under this clause during the preceding 12-month period.
- (d) For purposes of subheading 9821.11.25, the duty-free treatment afforded to goods imported under such subheading shall be limited, in each of the time periods set forth herein, to an aggregate quantity not to exceed the applicable percentage set forth herein in aggregate square meter equivalents of all apparel articles imported into the United States in the preceding one-year period for which data are available:

<u>Time Period</u>	<u>Applicable Percentage</u>
October 1, 2002 through September 30, 2003	2%
October 1, 2003 through September 30, 2004	2.75%
October 1, 2004 through September 30, 2005	3.5%
October 1, 2005 through September 30, 2006	4.25%
October 1, 2006 through December 31, 2006	5%

The aggregate quantity of imports allowed during each enumerated time period shall be published in the Federal Register by the Committee for the Implementation of Textile Agreements.

- (e) For purposes of subheading 9821.11.25, duty-free treatment shall be afforded to goods imported under such subheading whether or not the apparel articles are also made from any of the fabrics, fabric components formed or components knit-to-shape described in subheadings 9821.11.01 through 9821.11.10, inclusive, unless such articles are made exclusively from any of the fabrics, fabric components formed or components knit-to-shape described in such subheadings.
4. (a) A textile or apparel article otherwise eligible for preferential treatment under the provisions of this subchapter shall not be ineligible for such treatment because the article contains—
- (i) findings or trimmings of foreign origin, if the value of such findings and trimmings does not exceed 25 percent of the cost of the components of the assembled article;
- (ii) certain interlinings of foreign origin, if the value of such interlinings (and any findings and trimmings of foreign origin) does not exceed 25 percent of the cost of the components of the assembled article, unless

the appropriate U.S. government authority terminates such treatment in a determination published in the Federal Register; or

- (iii) yarns not wholly formed in the United States or in one or more designated ATPDEA beneficiary countries enumerated in U.S. note 1 to this subchapter, provided that the total weight of all such yarns is not more than 7 percent of the total weight of the good.
- (b) For purposes of subdivision (a)(i) above, findings or trimmings eligible under such subdivision include sewing thread, hooks and eyes, snaps, buttons, "bow buds", decorative lace trim, elastic strips, zippers (including zipper tapes), labels, and other similar products.
- (c) For purposes of subdivision (a)(ii) above, the interlinings eligible under such subdivision include only a chest type plate, "hymo" piece or "sleeve header", of woven or weft-inserted warp knit construction and of coarse animal hair or man-made filaments.
- (d) For purposes of subheadings 9821.11.01 through 9821.11.13, inclusive, and subheading 9821.11.25, an article otherwise eligible for preferential treatment under such subheadings shall not be ineligible because the article contains nylon filament yarn (other than elastomeric yarn) that is classifiable in subheading 5402.10.30, 5402.10.60, 5402.31.30, 5402.31.60, 5402.32.30, 5402.32.60, 5402.41.10, 5402.41.90, 5402.51.00 or 5402.61.00 of the tariff schedule that is entered free of duty as a product of Israel under the terms of general note 8 to the tariff schedule or as a good of Canada or a good of Mexico under the terms of general note 12 to the tariff schedule.

	: Articles imported from a designated ATPDEA beneficiary	:	:	:
	: country enumerated in U.S. note 1(a) to this subchapter:	:	:	:
9821.01.01	: Tuna in foil or in flexible airtight containers, the fore-	:	:	:
	: going weighing with their contents not more than 6.8 kg	:	:	:
	: each, under the terms of U.S. note 2 to this subchapter...	:	: Free	:
	:	:	:	:
	: Apparel articles sewn or otherwise assembled in one or	:	:	:
	: more such countries, or the United States, or both,	:	:	:
	: exclusively from any of the following:	:	:	:
9821.11.01	: Fabrics or fabric components wholly formed, or	:	:	:
	: components knit-to-shape, in the United States,	:	:	:
	: from yarns wholly formed in the United States or	:	:	:
	: in one or more such countries (including fabrics	:	:	:
	: not formed from yarns, if such fabrics are clas-	:	:	:
	: sifiable in heading 5602 or 5603 of the tariff	:	:	:
	: schedule and are formed in the United States),	:	:	:
	: provided that, if such apparel articles are assem-	:	:	:
	: bled from knitted or crocheted fabrics or from	:	:	:
	: woven fabrics, all dyeing, printing and finishing of	:	:	:
	: the fabrics is carried out in the United States.....	:	: Free	:
	:	:	:	:
9821.11.04	: Fabrics or fabric components formed or compo-	:	:	:
	: nents knit-to-shape in one or more such countries,	:	:	:
	: from yarns wholly formed in one or more such	:	:	:
	: countries, if such fabrics (including fabrics not	:	:	:
	: formed from yarns, if such fabrics are classifiable	:	:	:
	: in heading 5602 or 5603 of the tariff schedule and	:	:	:
	: are formed in one or more such countries) or	:	:	:
	: components are in chief value of llama, alpaca or	:	:	:
	: vicuña.....	:	: Free	:
	:	:	:	:

	: [Articles...]	:	:	:
	: [Apparel...]	:	:	:
9821.11.07	: Fabrics or yarns, provided that such apparel	:	:	:
	: articles of such fabrics or yarns would be consid-	:	:	:
	: ered an originating good under the terms of gen-	:	:	:
	: eral note 12(t) to the tariff schedule without regard	:	:	:
	: to the source of the fabric or yarn if such apparel	:	:	:
	: article had been imported from the territory of	:	:	:
	: Canada or the territory of Mexico directly into the	:	:	:
	: customs territory of the United States.....	:	: Free	:
9821.11.10	: Fabrics or yarns designated by the appropriate	:	:	:
	: U.S. government authority in the <u>Federal Register</u>	:	:	:
	: as fabrics or yarns that cannot be supplied by the	:	:	:
	: domestic industry in commercial quantities in a	:	:	:
	: timely manner, under any terms as such authority	:	:	:
	: may provide.....	:	: Free	:
9821.11.13	: Combinations of fabrics, fabric components,	:	:	:
	: knit-to-shape components or yarns described in	:	:	:
	: two or more subheadings from 9821.11.01	:	:	:
	: through 9821.11.10, inclusive.....	:	: Free	:
9821.11.16	: Handloomed, handmade or folklore textile and apparel	:	:	:
	: goods, under the terms of U.S. note 3(b) to this sub-	:	:	:
	: chapter.....	:	: Free	:
9821.11.19	: Brassieres classifiable in subheading 6212.10 of the	:	:	:
	: tariff schedule, both cut and sewn or otherwise assem-	:	:	:
	: bled in the United States, or one or more such countries,	:	:	:
	: or both, subject to the provisions of U.S. note 3(c) to	:	:	:
	: this subchapter.....	:	: Free	:
9821.11.22	: Textile luggage assembled in one or more such countries	:	:	:
	: from fabric cut in one or more such countries from fabric	:	:	:
	: wholly formed in the United States from yarns wholly	:	:	:
	: formed in the United States.....	:	: Free	:
9821.11.25	: Apparel articles sewn or otherwise assembled in one or	:	:	:
	: more such countries from fabrics or from fabric compo-	:	:	:
	: nents formed or from components knit-to-shape in one	:	:	:
	: or more such countries, from yarns wholly formed in	:	:	:
	: the United States or in one or more such countries	:	:	:
	: (including fabrics not formed from yarns, if such fabrics	:	:	:
	: are classifiable in heading 5602 or 5603 of the tariff	:	:	:
	: schedule and are formed in one or more such countries);	:	:	:
	: the foregoing apparel articles imported under the terms	:	:	:
	: of U.S. note 3(d) and U.S. note 3(e) to this subchapter....	:	: Free	:

F. Chapter 16 of the HTS is modified by:

(i) deleting from additional U.S. note 3 to such chapter "1604.14.20" and inserting in lieu thereof "1604.14.22".

(ii) for the Rates of Duty 1-Special subcolumn in HTS subheading 1604.14.22, on January 1 for each of the years listed below, deleting the rate of duty followed by the symbol "MX,R" in parentheses and inserting in lieu thereof the rate of duty specified:

<u>2003</u>	<u>2004</u>	<u>2005</u>	<u>2006</u>	<u>2007</u>	<u>2008</u>
2%	1.6%	1.2%	0.8%	0.4%	Free

(iii) for the Rates of Duty I-Special subcolumn in HTS subheading 1604.14.22, on January 1 for each of the years listed below, deleting the rate of duty followed by the symbol "JO" in parentheses and inserting in lieu thereof the rate of duty specified:

<u>2003</u>	<u>2004</u>
1.5%	Free

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Billing code 3190-01-C