

UNITED STATES INTERNATIONAL TRADE COMMISSION  
Washington, DC 20436

**MEMORANDUM ON PROPOSED TARIFF LEGISLATION  
of the 109<sup>th</sup> Congress <sup>1</sup>**

[Date approved: September 12, 2005 ]<sup>2</sup>

**Bill No. and sponsor:** H.R. 1945 (Mr. Simmons et al.).

**Proponent name, location:** Brooks Brothers  
346 Madison Avenue  
New York NY 10017

**Other bills on product (109<sup>th</sup> Congress only):** S. 738 (Mr. Specter)

**Nature of bill:** Temporary duty suspension through 12/31/06.

**Retroactive effect:** None.

**Suggested article description(s) for enactment (including appropriate HTS subheading(s)):**

We suggest the proposed language for the headings for chapter 99 be changed to read as follows:

HTS heading 9902.52.08: Woven fabrics of cotton, of a type described in the subheading rule to subheading 6205.20 as set forth in general note 12(t) to the tariff schedule, certified by the importer to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. notes 18 and 19 of this subchapter.

HTS heading 9902.52.09: Woven fabrics of cotton, certified by the importer to be wholly of pima cotton grown in the United States and to be suitable for use in men's and boys' shirts, the foregoing imported by or for the benefit of a manufacturer of men's and boys' shirts under the terms of U.S. note 18 of this subchapter.

**Check one:**  Same as that in bill as introduced  
 Different from that in bill as introduced (see Technical comments section for explanation and for suggested modifications to proposed HTS U.S. notes)

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<sup>1</sup> Industry analyst preparing report: Kimberly Olsen (202-205-3455); Tariff Affairs contact: Jan Summers (202-205-2605).

<sup>2</sup> An electronic copy of this memorandum is available at [http://usitc.gov/tata/hts/other/rel\\_doc/bill\\_reports/index.htm](http://usitc.gov/tata/hts/other/rel_doc/bill_reports/index.htm).

**Product information, including uses/applications and source(s) of imports:**

This bill would provide duty-free treatment for U.S. imports of certain woven cotton fabrics, certified for use for men’s and boys’ shirts. The apparent intent of the bill is to grant this treatment to the fabrics listed in the rules of origin related to HTS subheading 6205.20, as set forth in Annex 401 to the NAFTA. For that reason, as shown on page 1, we have suggested inserting the descriptive reference to the enumeration of those fabrics in HTS general note 12(t), where the NAFTA rules of origin<sup>3</sup> are given effect for the United States. The cotton shirting fabrics are used by U.S. shirt manufacturers and retailers to produce custom shirts, as well as to fill fabric inventories and to produce stock shirt lines.

New U.S. note 18 appears to be intended to ensure that the subject fabrics could be imported free of duty only by or for a legal person that cuts and sews such shirts in the United States. New U.S. note 19 would impose a quantitative limit on fabrics imported under heading 9902.52.08, based upon each importing company’s imports in 2000. Heading 9902.52.09 would provide duty-free treatment for woven fabrics “containing 100 percent pima cotton grown in the United States” without quantitative limitation.

U.S. imports under the relevant HTS subheadings of all types of fabrics, including the subject men’s shirting fabrics, totaled \$68 million in 2004. However, the fabrics eligible for duty elimination are estimated to be a smaller portion of these total imports. Nearly two-thirds of the value of U.S. imports of all cotton fabrics under these subheadings were accounted for by Pakistan (27 percent), China (19 percent), and Italy (17 percent). Indonesia, India, Japan, and Israel each supplied an additional 5 percent of U.S. imports.

**Estimated effect on customs revenue:**

<b>HTS heading: 9902.52.08</b>					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty (AVE) <u>1/</u>	12%	12%	12%	12%	12%
Estimated value <i>dutiable</i> imports	\$15,000,000	\$17,250,000	\$19,837,500	\$22,813,125	\$26,235,094
Customs revenue loss	\$1,800,000	\$2,070,000	\$2,380,500	\$2,737,575	\$3,935,264

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ Total dutiable imports to be covered by proposed headings 9902.52.08 and 9902.52.09 are estimated at \$20 million. Based on industry sources, it is estimated that 75 percent of imports of subject shirting fabrics could enter under HTS heading 9902.52.08, covering the fabrics that are not of U.S. pima cotton. Such imports could vary with market demand. The quantity of fabrics that could be imported by each manufacturer is not known, potentially affecting the level and share of imports entered under HTS heading 9902.52.08.

Source: Dutiable imports estimated based on official U.S. Government statistics and industry estimates.

<sup>3</sup> See subheading rule preceding tariff classification rule 30 to HTS chapter 62. Based on discussions with the proponent, the subject fabrics are assumed to be classified under the following HTS subheadings: 5208.21.60, 5208.22.60, 5208.22.80, 5208.29.20, 5208.29.80, 5208.31.80, 5208.32.40, 5208.32.50, 5208.39.20, 5208.39.80, 5208.41.60, 5208.41.80, 5208.42.50, 5208.49.20, 5208.49.80, 5208.51.80, 5208.52.50, 5208.59.20, 5208.59.80, 5210.21.80, 5210.31.80. David Starr (Williams & Jensen), counsel to proponent, telephone interview with Commission staff, June 29, 2005. These HTS subheadings each cover a broader range of fabrics than those covered by the bill.

<b>HTS heading: 9902.52.09</b>					
	2005	2006	2007	2008	2009
Col. 1-General rate of duty (AVE) <u>1/</u>	12%	12%	12%	12%	12%
Estimated value <i>dutiable</i> imports	\$5,000,000	\$5,750,000	\$6,612,500	\$7,604,375	\$8,745,031
Customs revenue loss	\$600,000	\$690,000	\$793,500	\$912,525	\$1,049,404

1/ The AVE is the ad valorem equivalent of a specific or compound duty rate expressed as a percent, using the most recent import data available.

2/ Total dutiable imports to be covered by proposed headings 9902.52.08 and 9902.52.09 are estimated at \$20 million. Based on industry sources, Commission staff estimates that 25 percent of imports of subject shirting fabrics of pima cotton could enter under HTS heading 9902.52.09. Such imports could vary with market demand. The provisions of chapter 52 that otherwise apply to such fabrics cover a broader range of goods than would be eligible for entry under heading 9902.52.09.

Source: Dutiable imports estimated based on official U.S. Government statistics, and industry estimates.

#### **Contacts with domestic firms/organizations (including the proponent)<sup>4</sup>:**

Name of firm/organization	Date contacted	US production of same or competitive product claimed?	Submission attached?	Opposition noted?
		(Yes/No)		
Brooks Brothers (Proponent), Joe Dixon, 212-309-7288	7/18/2005	No	Yes	No
Congressman Rob Simmons (R-CT) Meghan Curran, 202-225-2076	6/27/2005	No	No	No
National Council of Textile Organizations, Missy Branson, 202-756-1440	7/18/2005	No	Yes	Yes
Supima Association, Jesse Curlee, 602-437-1364	6/30/2005	No	Yes	No
Dan River, Greg R. Boozer and Jim Martin, 434-799-7214	7/14/2005	Yes	Yes	Yes
Gitman, John Minahan, III, 212-581-6968	7/21/2005	Yes	Yes	No

<sup>4</sup> The USITC does not express an opinion on this bill, or any other tariff reduction/elimination bill before Congress.

Buhler Quality Yarn Corporation, Warner Bieri, 706-367-9834	7/12/2005	No	Yes	No
American Apparel & Footwear Association, Steve Lamar, 703-797-9041	7/6/2005	No	Yes	No
Ripley Shirt Company, Sergio Malconian, 214-941-0311	7/12/2005	No	No	No
Phillips-Van Heusen, Mike Barbarree, E-mail: MikeBarberree@pvhcom	7/12/2005	No	No	No
Hamilton Shirts, David Hamilton, 713-780-8222	7/12/2005	No	No	No
Galey & Lord, John Heldrich, 770-901-6314	7/12/2005	No	No	No
Mount Vernon Mills, Richard Turner, 864-688-7100	7/12/2005	No	No	No
Avondale Mills, Richard Turner, 803-663-2641	7/12/2005	No	No	No
Milliken and Company, John Nash, 202-775-0084	7/12/2005	No	No	No
Inman Mills, Norman Chapman, 864-472-2121	7/12/2005	No	No	No
Delta Mills Marketing/Delta Woodside James Self, 864-227-2121	7/12/2005	No	No	No
Fishman & Tobin, Nick Vetere, 610-828-8400	7/12/2005	No	No	No
National Cotton Council A John Maguire, 202-745-7805	7/12/2005	No	No	No
Schneider Mills, Robert Stein, 212-768-7500	7/12/2005	No	No	No
Ramtex, Tom Seiler, 203-655-1177	7/12/2005	No	No	No

## Technical comments:<sup>5</sup>

For clarity of scope, it is suggested that the two article descriptions be written as shown on page 1, and that the fabrics intended to be covered by new heading 9902.52.08 be defined by reference to the enumeration in HTS general note 12(t). References to documents other than the HTS are burdensome and potentially confusing for importers and for Customs. As to the legal notes, we note that there is no physical characteristic about any potentially covered cotton fabric that would determine if it is “suitable for use in cutting and sewing”; thus, it would seem that the word “making” and its definition in the U.S. note should be deleted because they do not add usefully to the description. If there is concern as to whether any particular fabric shipment is going to be used to make shirts, then the provision should be drafted as an “actual use” provision and the word “suitable” should be dropped from both new headings. Further, U.S. note 18 would only require that a manufacturer must cut and sew SOMETHING; it does not even specify that a textile product is involved (as opposed to leather or plastics), that apparel must be cut and sewn, or that the men’s and boys’ shirts of interest to the proponent and other entities. Clarifying these points may be helpful in delineating the scope of the provisions.

The program proposed in new U.S. note 19 would seem likely to present the same administrative burdens as the current wool-fabric-for-suits provisions now in effect. When the note uses the words “cotton fabrics” it could be interpreted as including all fabrics having the essential character of cotton, meaning those in which cotton fibers predominate by weight over other materials (wool, man-made fibers, other vegetable materials, or other constituents). This wide range of possible fabrics that could be counted in determining the square meter equivalents eligible under this program would seem likely to give rise to a relatively high quantitative limit for larger firms, and thus to a considerable monitoring burden for the administering agencies. Both legal notes should refer to the new provisions as headings, rather than subheadings.

According to the proponent of the legislation, the intent of heading 9902.52.09 is to include fabrics made entirely from U.S.-grown pima cotton.<sup>6</sup> However, proposed subheading 9902.52.09 states that woven cotton fabrics “contain” 100 percent “pima” cotton. According to U.S. Customs officials, “of pima cotton” is interpreted to mean chief weight pima cotton. Thus, we have suggested avoiding use of the word “containing” to avoid this point of confusion and have added “wholly” as a more usual tariff criterion.

The Commission defers to Executive Branch agencies to comment on the general administrability of the bill and on the provisions regarding licensing and the proposed cotton trust fund. Last, we note that the title of the bill refers to duty reductions, while the bill is drafted to establish temporary duty suspensions.

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<sup>5</sup> The Commission may express an opinion on the HTS classification of a product to facilitate consideration of the bill. However, by law, only the U.S. Customs Service is authorized to issue a binding ruling on this matter. The Commission believes that the U.S. Customs Service should be consulted prior to enactment of the bill.

<sup>6</sup> David Starr (Williams & Jensen), counsel to the proponent, e-mail to Commission staff, July 18, 2005.

**E-mail from Supima Association (Received 6/30/05, 4:45pm):**

“Dear Kim:

Sorry for not responding sooner, but I just returned to the office this morning after being out a week and it has been catch up all day.

To begin with Supima strongly supports this legislation. It is very important to the growers for Supima cotton in California, Arizona, New Mexico and the El Paso region of Texas.

In regard to the proposed new HTS subheading 9902.5209, that requires the importer to certify that the fabrics contain American Pima cotton, we believe the provision is enforceable. First it places the burden on the importer. An importer making a certification would have to have some supporting documentation--most likely an invoice from a foreign mill.

We understand that requiring certification by an importer is used in numerous areas in the tariff schedule in occasions where potential or actual end use of the product is involved, or other characteristics not subject to lab analysis are a requirement of the classification. If Customs requested evidence of U.S. Pima cotton to support the certification, any valid certification would have a paper trail that would support the claim. For example, the foreign mill would have documentation of sourcing its cotton if it was a spinner: or its fabric if it purchased from a third party spinner. The paper trail would lead back to a U.S. cotton supplier. Supima would certainly be able to help Customs in the event of an inquiry or investigation regarding any claimed sourcing of U.S. Pima cotton.

In regard to the question of quantity limitations, the legislation contains a quantity limitation on imported cotton shirting fabric under proposed HTS 9902.52.08. However, there is no quantity limitation on imported cotton shirting fabric containing U.S. Pima under heading 9902.52.09.

This framework is intended to provide an incentive for foreign mills to consider using U.S. cotton in lieu of alternative extra long staple cottons.

Sincerely,

Jesse Curlee  
Supima”

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**E-mail from the American Apparel and Footwear Association (Received 7/05/05, 10:07pm):**

“Kim

AAFA strongly supports the proposed legislation.

Regards,

Steve Lamar”

**E-mail from Buhler Quality Yarns Corporation (Received 7/10/05, 10:04am):**

“Dear Miss Olsen

Buhler Quality Yarns supports those two bills, because they give the domestic industry an equal footing vs external competition, especially from Canada and Mexico, but others as well.

Buhler is supporting those bills as there is no domestic customer anymore weaving high end shirting fabrics in the US, using extra long staple domestic grown Supima cottons, all the yarns we are spinning for this purpose need therefor to be exported, woven into the fabrics and those fabrics are coming in part back into the US to US shirting manufacturers and it is not right that those shirting manufacturers are punished with import duty.

Buhler believes those bills will help preserving US jobs from cotton growers, ginnerers, warehousing, merchants, spinning and garment making.

best regards

werner bieri

president & ceo”

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**E-mail from David A. Starr (Williams & Jensen)(Received 7/18/05, 3:55pm):**

“We intended chief weighjt to be pima. Containing was not intended

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DAS”

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**E-mail Attachment from Brooks Brothers (Received 7/18/2005, 5:39pm):**

**“WILL CONGRESS ALLOW US TO PUT AMERICAN-MADE SHIRTS ON THE BACKS OF AMERICAN WORKERS?”**

Brooks Brothers’ North Carolina shirt manufacturing plant today employs nearly 250 men and women who make shirts that are sold in Brooks Brothers stores across the country. These hard working employees, along with those of our competitors in Alabama, Louisiana, New Jersey and Pennsylvania, are the few survivors of a U.S. trade policy that has literally given away our jobs to manufacturers in Canada, Mexico, the Caribbean, and South American and African countries.

For more than a decade our government has entered into trade agreements and enacted trade laws that acknowledge that the fine cotton shirting fabrics that are used to make our dress shirts are not made in the United States. Thus, we have allowed men’s cotton dress shirts made elsewhere to enter the US duty-free regardless of where the fabrics are made or the cotton grown.

And what about those shirting manufacturers that have tried to stay and produce here in the USA? And what of the cotton producers and the cotton spinners who make the fiber and the threads that can be turned into high-end cotton shirting fabrics?

While foreign manufacturers have received a tax holiday, those of us who remained manufacturing here and employing American workers have paid a high protectionist duty to protect a fabric that is no longer made here at home. Over the last 5 years alone, we have paid more than \$57 million in duties for the right to manufacture in the U.S., while our competitors from Canada, Mexico, and offshore have exported more than 45 million men's cotton dress shirts into the U.S. duty-free.

We have paid the "Made in America" tax as we watched our market share erode to those who moved their factories or sourced their goods from afar. And we have lost thousands of manufacturing jobs as a direct result.

Last year the surviving U.S. shirt manufacturers, including our company, banded together and reached out to U.S. growers of high-end cotton and U.S. spinners that turn cotton into yarns. And today we are jointly advocating for a level playing field to save our respective industries. We seek relief on the duties we pay for the cotton fabrics that are no longer made in the U.S. and which we must import. We have also asked that \$32 million of the "Made in America" tax already collected be returned to help our industry remain competitive in the United States. These tax refunds would be distributed to maintain U.S. jobs and finance a "Buy American-Made Shirts with American-Grown Cotton" campaign. These are dollars that the government should never have collected. Our proposal offers an opportunity for us to retake some of the shelf space that now holds shirts manufactured abroad.

The U.S. Senate has included the gist of our proposal in a trade bill that it passed earlier this year. But it is a bill that has yet to see any final Congressional action, and the language still needs to be fine-tuned. The Senate legislation has a technical glitch – it would add additional uncertainty by giving us an IOU instead of a refund, forcing us to return annually to Congress to seek the duty refunds we deserve. We didn't pay these duties with IOU's, we paid them with real dollars. IOU's from Congress will not save a single U.S. job. Our competitors in Canada, Mexico, Africa and the Caribbean were never asked to come back to Congress to finalize their relief year-after-year! Neither should we.

While we have been waiting for action, Congress has extended for five more years the tax holiday for shirt manufacturers in Africa. Our government has time to help create jobs offshore, but has yet to help us maintain our own. We have no objection to extending the tax relief for those who source production in Africa, so long as we are given an opportunity to survive as well.

Unless we act soon to create a level playing field on which we can compete, the shirt plants and the people they employ in places like Garland, North Carolina, will eventually be forced to relent to the market forces that have shuttered too many textile and apparel companies in our state and across this country.

It is time to restore the American-made shirt to the backs of American workers, and it is time to put American-made shirts back on the shelves of America's stores. Congress has a chance to demonstrate that it truly cares about the economies of towns like Garland, North Carolina. But the clock is ticking."

109TH CONGRESS  
1ST SESSION

# H. R. 1945

To provide temporary duty reductions for certain cotton fabrics, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 27, 2005

Mr. SIMMONS (for himself and Mr. ETHERIDGE) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committees on Agriculture and Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To provide temporary duty reductions for certain cotton fabrics, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3       **SECTION 1. TEMPORARY DUTY REDUCTIONS FOR CERTAIN**  
4               **COTTON SHIRTING FABRIC.**

5       (a) CERTAIN COTTON SHIRTING FABRICS.—

6               (1) IN GENERAL.—Subchapter II of chapter 99  
7       is amended by inserting in numerical sequence the  
8       following new headings:

“	9902.52.08	Woven fabrics of cotton, all the foregoing certified by the importer as suitable for use in making men’s and boys’ shirts and as imported by or for the benefit of a manufacturer of men’s and boys’ shirts, subject to the quantity limitations contained in general note 18 of this subchapter (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203)) .....	Free	No change	No change	On or before 12/31/2006	”.
	9902.52.09	Woven fabrics of cotton, all the foregoing certified by the importer as containing 100 percent pima cotton grown in the United States, as suitable for use in making men’s and boys’ shirts, and as imported by or for the benefit of a manufacturer of men’s and boys’ shirts (provided for in section 204(b)(3)(B)(i)(III) of the Andean Trade Preference Act (19 U.S.C. 3203)) .....	Free	No change	No change	On or before 12/31/2006	

1 (2) DEFINITIONS AND LIMITATION ON QUAN-  
 2 TITY OF IMPORTS.—The U.S. Notes to subchapter II  
 3 of chapter 99 are amended by adding at the end the  
 4 following:

5 “18. For purposes of subheadings 9902.52.08 and  
 6 9902.52.09, the term ‘making’ means cutting and  
 7 sewing in the United States, and the term ‘manufac-  
 8 turer’ means a person or entity that cuts and sews  
 9 in the United States.

10 “19. The aggregate quantity of cotton fabrics entered  
 11 under subheading 9902.52.08 from January 1 to De-  
 12 cember 31 of each year, inclusive, by or on behalf  
 13 of each manufacturer of men’s and boys’ shirts shall  
 14 be limited to 85 percent of the total square meter  
 15 equivalents of all imported cotton woven fabric used  
 16 by such manufacturer in cutting and sewing men’s

1 and boys' cotton shirts in the United States and pur-  
2 chased by such manufacturer during calendar year  
3 2000.”.

4 (b) DETERMINATION OF TARIFF-RATE QUOTAS.—

5 (1) AUTHORITY TO ISSUE LICENSES AND LI-  
6 CENSE USE.—In order to implement the limitation  
7 on the quantity of cotton woven fabrics that may be  
8 entered under subheading 9902.52.08 of the Har-  
9 monized Tariff Schedule of the United States, as re-  
10 quired by U.S. Note 19 to subchapter II of chapter  
11 99 of such Schedule, the Secretary of Commerce  
12 shall issue licenses to eligible manufacturers under  
13 subheading 9902.52.08, specifying the restrictions  
14 under each such license on the quantity of cotton  
15 woven fabrics that may be entered each year by or  
16 on behalf of the manufacturer. A licensee may as-  
17 sign the authority (in whole or in part) under the li-  
18 cense to import fabric under subheading 9902.52.08  
19 of such Schedule.

20 (2) LICENSES UNDER U.S. NOTE 19.—For pur-  
21 poses of U.S. Note 19 to subchapter II of chapter  
22 99 of the Harmonized Tariff Schedule of the United  
23 States, the Secretary of Commerce shall issue a li-  
24 cense to a manufacturer within 60 days after the  
25 manufacturer files with the Secretary of Commerce

1 an application containing a notarized affidavit from  
2 an officer of the manufacturer that the manufac-  
3 turer is eligible to receive a license and stating the  
4 quantity of imported cotton woven fabric purchased  
5 during calendar year 2000 for use in the cutting and  
6 sewing men's and boys' shirts in the United States.

7 (3) AFFIDAVITS.—For purposes of an affidavit  
8 described in this subsection, the date of purchase  
9 shall be—

10 (A) the invoice date if the manufacturer is  
11 not the importer of record; and

12 (B) the date of entry if the manufacturer  
13 is the importer of record.

14 **SEC. 2. COTTON TRUST FUND.**

15 (a) ESTABLISHMENT OF TRUST FUND.—

16 (1) IN GENERAL.—There is established in the  
17 Treasury of the United States a trust fund to be  
18 known as the “Pima Cotton Trust Fund” (in this  
19 section referred to as the “Trust Fund”), consisting  
20 of such amounts as may be transferred to the Trust  
21 Fund under paragraph (2).

22 (2) TRANSFER OF AMOUNTS.—

23 (A) IN GENERAL.—Beginning October 1,  
24 2005, the Secretary of the Treasury shall trans-  
25 fer to the Trust Fund, from the general fund

1 of the Treasury, amounts determined by the  
2 Secretary of the Treasury to be equivalent to  
3 the amounts received in the general fund that  
4 are attributable to duties received since Janu-  
5 ary 1, 1994, on articles under subheadings  
6 5208.21.60, 5208.22.80, 5208.29.80,  
7 5208.31.80, 5208.32.50, 5208.39.80,  
8 5208.41.80, 5208.42.50, 5208.49.80,  
9 5208.51.80, 5208.52.50, 5208.59.80,  
10 5210.21.80, and 5210.31.80 of the Harmonized  
11 Tariff Schedule of the United States, subject to  
12 the limitation in subparagraph (B).

13 (B) LIMITATION.—The Secretary may not  
14 transfer more than \$16,000,000 to the Trust  
15 fund in any fiscal year, and may not transfer  
16 any amount beginning on or after October 1,  
17 2007.

18 (3) DISTRIBUTION OF FUNDS.—From amounts  
19 in the Trust Fund, the Commissioner of the Bureau  
20 of Customs and Border Protection shall make the  
21 following payments annually beginning in fiscal year  
22 2005:

23 (A) 25 percent of the amounts in the  
24 Trust Fund shall be paid annually to a nation-  
25 ally recognized association established for the

1 promotion of pima cotton grown in the United  
2 States for the use in textile and apparel goods.

3 (B) 25 percent of the amounts in the  
4 Trust Fund shall be paid annually to yarn spin-  
5 ners of pima cotton grown in the United States,  
6 and shall be allocated to each spinner in an  
7 amount that bears the same ratio as—

8 (i) the spinner's production of ring  
9 spun cotton yarns, measuring less than  
10 83.33 decitex (exceeding 120 metric num-  
11 ber) from pima cotton grown in the United  
12 States in single and plied form during cal-  
13 endar year 2002 (as evidenced by an affi-  
14 davit provided by the spinner) bears to—

15 (ii) the production of the yarns de-  
16 scribed in clause (i) during calendar year  
17 2002 for all spinners who qualify under  
18 this subparagraph.

19 (C) 50 percent of the amounts in the Trust  
20 Fund shall be paid annually to those manufac-  
21 turers who cut and sew cotton shirts in the  
22 United States who certify that they used im-  
23 ported cotton fabric during the period January  
24 1, 1998, through July 1, 2003, and shall be al-

1 located to each such manufacturer in an  
2 amount that bears the same ratio as—

3 (i) the dollar value (excluding duty,  
4 shipping, and related costs) of imported  
5 woven cotton shirting fabric of 80s or  
6 higher count and 2-ply in warp purchased  
7 by the manufacturer during calendar year  
8 2002 (as evidenced by an affidavit from  
9 the manufacturer that meets the require-  
10 ments of paragraph (4)) used in the manu-  
11 facturing of men's and boys' cotton shirts,  
12 bears to—

13 (ii) the dollar value (excluding duty,  
14 shipping, and related costs) of the fabric  
15 described in clause (i) purchased during  
16 calendar year 2002 by all manufacturers  
17 who qualify under this subparagraph.

18 (4) AFFIDAVIT OF SHIRTING MANUFACTUR-  
19 ERS.—The affidavit required by paragraph (3)(C) is  
20 a notarized affidavit provided by an officer of the  
21 manufacturer of men's and boys' shirts concerned  
22 that affirms—

23 (A) that the manufacturer used imported  
24 cotton fabric during the period January 1,  
25 1998, through July 1, 2003, to cut and sew

1 men's and boys' woven cotton shirts in the  
2 United States;

3 (B) the dollar value of imported woven cot-  
4 ton shirting fabric of 80s or higher count and  
5 2-ply in warp purchased during calendar year  
6 2002;

7 (C) that the manufacturer maintains in-  
8 voices along with other supporting documenta-  
9 tion (such as price lists and other technical de-  
10 scriptions of the fabric qualities) showing the  
11 dollar value of such fabric purchased, the date  
12 of purchase, and evidencing the fabric as woven  
13 cotton fabric of 80s or higher count and 2-ply  
14 in warp; and

15 (D) that the fabric was suitable for use in  
16 the manufacturing of men's and boys' cotton  
17 shirts.

18 (5) DATE OF PURCHASE.—For purposes of the  
19 affidavit under paragraph (4), the date of purchase  
20 shall be the invoice date, and the dollar value shall  
21 be determined excluding duty, shipping, and related  
22 costs.

23 (6) AFFIDAVIT OF YARN SPINNERS.—The affi-  
24 davit required by paragraph (3)(B) is a notarized af-

1       fidavit provided by an officer of the producer of ring  
2       spun yarns that affirms—

3               (A) that the producer used pima cotton  
4               grown in the United States during the period  
5               January 1, 2002, through December 31, 2002,  
6               to produce ring spun cotton yarns, measuring  
7               less than 83.33 decitex (exceeding 120 metric  
8               number), in single and plied form during 2002;

9               (B) the quantity, measured in pounds, of  
10              ring spun cotton yarns, measuring less than  
11              83.33 decitex (exceeding 120 metric number),  
12              in single and plied form during calendar year  
13              2002; and

14             (C) that the producer maintains sup-  
15             porting documentation showing the quantity of  
16             such yarns produced, and evidencing the yarns  
17             as ring spun cotton yarns, measuring less than  
18             83.33 decitex (exceeding 120 metric number),  
19             in single and plied form during calendar year  
20             2002.

21             (7) NO APPEAL.—Any amount paid by the  
22             Commissioner of the Bureau of Customs and Border  
23             Protection under this section shall be final and not  
24             subject to appeal or protest.

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