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## International Trade Alert

July 2012

### Nicaragua Falls Short Again: Tariff Preference Level Reduced by 3% for 2012

On Tuesday July 10, 2012, the Committee for the Implementation of Textile Agreements announced that it is reducing the 2012 tariff preference level (TPL) for Nicaragua to account for the shortfall in meeting the one-to-one commitment for cotton and man-made fiber trousers exported from Nicaragua to the United States pursuant to the Central America-Dominican Republic-United States Free Trade Agreement (CAFTA-DR). The TPL can be beneficial to both U.S. textile mills seeking to source in Nicaragua as well as retailers and apparel manufacturing companies doing business in Nicaragua.

#### How Will the Reduced TPL Affect Sourcing?

The amendment to the 2012 TPL for cotton and man-made fibers exported from Nicaragua to the U.S. reduces the overall limit of qualifying trousers that can seek duty-free treatment pursuant to Annex 3.28 of the CAFTA-DR as implemented in General Note 29 of the Harmonized Tariff Schedule of the United States.

The 2012 TPL prior to amendment would have been 100 million square meters equivalent (SME), which has now been reduced by 3,470,941 SME to the current TPL of 96,529,059 SME. The 2012 preference period began on April 1, 2012 and will be open until March 31, 2013. As of the effective date of the amendment, the TPL was 50.5% full. The status of the fill rate can be accessed by [clicking here](#).

Upon filling the TPL, men's cotton and man-made trousers which would have otherwise been eligible for duty-free entry under the TPL provision will be subject to a rate of duty ranging from 5.6% *ad valorem* up to a staggering 28.2% *ad valorem*.

#### Authority for the Amendment

In an exchange of letters dated March 24 and 27, 2006, Nicaragua agreed that for each square meter's equivalent of exports of cotton and man-made fiber woven trousers entered under the TPL, Nicaragua would export to the United States an equal amount of cotton and man-made fiber woven trousers made of U.S. formed fabric comprised of U.S. formed yarn. In effect, the TPL allows third-party fabric to be used in the production of cotton and man-made fiber trousers provided (1) the goods otherwise meet the requirements for preferential treatment and (2) the trousers are both cut or knit-to-shape and sewn or otherwise assembled in Nicaragua. The trousers of U.S. fabric and the trousers of third-country fabrics need not be of the same fabric but must both be classified in the same trouser provisions. Section 1634(c)(2) of the Pension Protection Act authorized the President to proclaim a reduction in the overall limit of the TPL if the President determines Nicaragua failed to comply with the one-to-one commitment. Any shortfall in meeting this commitment that was not rectified by April 1 of the succeeding year would be applied against the TPL for the succeeding year. Notably, Nicaragua's compliance with regard to the one-for-one commitment has been continually deficient.

If you are interested in determining whether your goods are eligible for preferential treatment under the CAFTA-DR or you need assistance determining if you are in compliance with the agreement, please contact Venable's [International Trade and Customs Group](#) for assistance.