Canadian International Trade Tribunal
Tribunal canadien du commerce extérieur

CANADIAN INTERNATIONAL TRADE TRIBUNAL

Appeals

DECISION AND REASONS

Appeal No. AP-2010-014

Massive Prints, Inc.

v.

President of the Canada Border Services Agency

Decision and reasons issued Wednesday, April 27, 2011

Canada

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IN THE MATTER OF an appeal heard on February 1, 2011, pursuant to subsection 67(1) of the *Customs Act*, R.S.C. 1985 (2d Supp.), c. 1;

AND IN THE MATTER OF a decision of the President of the Canada Border Services Agency, dated May 3, 2010, with respect to a request for re-determination pursuant to subsection 60(4) of the *Customs Act*.

BETWEEN

MASSIVE PRINTS, INC. **Appellant**

AND

THE PRESIDENT OF THE CANADA BORDER SERVICES AGENCY **Respondent**

DECISION

The appeal is dismissed.

Serge Fréchette
Serge Fréchette
Presiding Member

Dominique Laporte
Dominique Laporte
Secretary

Place of Hearing:	Ottawa, Ontario
Date of Hearing:	February 1, 2011
Tribunal Member:	Serge Fréchette, Presiding Member
Counsel for the Tribunal:	Courtney Fitzpatrick
Research Director:	Matthew Sreter
Research Officer:	Gary Rourke
Manager, Registrar Office:	Michel Parent
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PARTICIPANTS:

Appellant	**Counsel/Representative**
Massive Prints, Inc.	Linda Stephens
Respondent	**Counsel/Representative**
President of the Canada Border Services Agency	Holly LeValliant

WITNESS:

Eric Trudel
A/Manager
Compliance Services Unit
Canada Border Services Agency

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STATEMENT OF REASONS

1. This is an appeal filed by Massive Prints, Inc. (Massive Prints) with the Canadian International Trade Tribunal (the Tribunal) pursuant to subsection 67(1) of the *Customs Act*[1] from a decision of the President of the Canada Border Services Agency (CBSA) dated May 3, 2010, with respect to a request for re-determination pursuant to subsection 60(4).

2. The issue in this appeal is whether 100 percent cotton T-shirts, styles 2007, 2307, 6307, 2101, 2102 and 2001 (the goods in issue), exported from the United States to Canada by Massive Prints are entitled to preferential tariff treatment, at the United States Tariff rate, under the *North American Free Trade Agreement*.[2]

PROCEDURAL HISTORY

3. In 2007, Massive Prints provided a certificate of origin to a Canadian importer of the goods in issue, which indicated that the goods in issue were entitled to preferential tariff treatment under *NAFTA*, on the basis of written representations of the producer of the goods in issue, American Apparel.

4. Massive Prints later became the subject of a verification of origin by the CBSA. On April 17, 2008, Massive Prints provided the CBSA with a certificate of origin and a manufacturer's affidavit completed by American Apparel. The certificate of origin certified that certain cotton T-shirts were produced entirely in the territory of one or more NAFTA countries and that they met the specific rule of origin, set out in Annex 401, which applied to the tariff classification. The manufacturer's affidavit indicated that the fabric used in the products sold to Massive Prints was produced in the United States, wholly of fabric and/or other materials originating in the United States.[3]

5. On August 19, 2008, the CBSA notified American Apparel that, pursuant to section 42.1 of the *Act*, it would be conducting a verification of the origin of the goods in issue, for which preferential tariff treatment under *NAFTA* had been claimed. The letter to American Apparel indicated that the failure to supply the requested information might render Massive Prints' certificates of origin invalid and result in the withdrawal of the preferential duty rate granted to all importers under *NAFTA*.[4]

6. On September 2, 2008, the CBSA received a copy of an exporter's certificate of non-originating textile goods via fax from American Apparel's Montréal, Quebec, office.[5] The certificate indicated that, for styles 2007, 2307 and 6307, the yarn used by American Apparel originated in Pakistan.

7. On September 3, 2008, the CBSA sent a subsequent letter to American Apparel asking it to confirm the information submitted with respect to styles 2007, 2307 and 6307 and/or to provide the required information on origin for all styles sold to Massive Prints. The letter reiterated that the failure to supply the requested information might render Massive Prints' certificates of origin invalid and result in the withdrawal of the preferential duty rate granted under *NAFTA*.[6]

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1. R.S.C. 1985 (2d Supp.), c. 1 [*Act*].
2. *North American Free Trade Agreement between the Government of Canada, the Government of the United Mexican States and the Government of the United States of America*, 17 December 1992, 1994 Can. T.S. No. 2 (entered into force 1 January 1994) [*NAFTA*].
3. Tribunal Exhibit AP-2010-014-10A, tabs 1, 2.
4. *Ibid.*, tab 2.
5. *Ibid.*, tab 4.
6. *Ibid.*, tab 3.

8. On November 7, 2008, having not received the information requested in its letter of August 19, 2008, and subsequent follow-up letter of September 3, 2008, the CBSA issued a ruling to American Apparel advising it that the goods in issue would be considered non-originating for the purposes of the verification of origin.[7]

9. On February 10, 2009, Massive Prints filed a request for re-determination pursuant to subsection 60(1) of the *Act*, wherein it submitted that the goods in issue should be entitled to preferential tariff treatment under *NAFTA* and requested that the CBSA contact the head of American Apparel directly in order to obtain the necessary information on origin.[8]

10. On March 9, 2010, the CBSA sent a letter to Massive Prints indicating that it had reached a preliminary decision to deny preferential tariff treatment. The letter advised Massive Prints that, if it did not agree with the preliminary decision, it should submit additional information to substantiate its claim.[9]

11. On May 3, 2010, the CBSA issued its decision pursuant to subsection 60(4) of the *Act*, which denied the request for re-determination and confirmed its prior denial of preferential tariff treatment under *NAFTA*.[10]

12. On June 7, 2010, Massive Prints filed a notice of appeal with the Tribunal pursuant to subsection 67(1) of the *Act*.

13. On July 27, 2010, Massive Prints requested that the Tribunal hear this appeal by way of written submissions. On August 5, 2010, the CBSA requested the Tribunal to proceed by way of a hearing as it intended to call a witness. On October 29, 2010, after having considered the submissions filed by both parties on this issue, the Tribunal informed the parties that it would hold a hearing, pursuant to rule 25 of the *Canadian International Trade Tribunal Rules*.[11]

14. The Tribunal held a public hearing in Ottawa, Ontario, on February 1, 2011. The CBSA called Mr. Eric Trudel, A/Manager of the Compliance Services Unit at the CBSA, as its only witness. Massive Prints chose not to attend the hearing. The transcript of the hearing was sent to Massive Prints on February 4, 2011, providing it with the opportunity to file a closing submission by February 18, 2011. Massive Prints did not provide any further written submission by that date.

15. On March 18, 2011, Massive Prints sent a fax to the CBSA, and a copy to the Tribunal, advising that Massive Prints considered the matter closed.

GOODS IN ISSUE

16. The goods in issue are described as 100 percent cotton T-shirts.

POSITIONS OF PARTIES

17. In its brief, Massive Prints submitted that American Apparel had provided it with assurances that the goods in issue qualified as originating goods, as they complied with *NAFTA*. In respect of the verification letters, Massive Prints argued that American Apparel had not received the letters from the

7. *Ibid.*, tab 8.
8. *Ibid.*, tab 9.
9. *Ibid.*, tab 10.
10. Tribunal Exhibit AP-2010-014-01A.
11. S.O.R./91-499.

CBSA regarding a site visit. Finally, Massive Prints argued that, as no site visit had been conducted of American Apparel's facilities and no audit had been performed on documents relating to the origin of the goods in issue, the CBSA could not have positively determined that the goods were not entitled to preferential tariff treatment under *NAFTA*. It requested that the CBSA reconsider its decision and contact American Apparel directly in order to conduct a verification of American Apparel's facilities.[12]

18. The CBSA submitted that, pursuant to paragraph 42.1(1)(*a*) of the *Act*, it was entitled to conduct a verification of the origin of goods by entering any prescribed premises or place at any reasonable time or in the manner prescribed by the *NAFTA and CCFTA Verification of Origin Regulations*,[13] which included reviewing a verification questionnaire or a written response received from the exporter or producer of the goods or a producer or supplier of a material that is used in the production of the goods.[14]

19. The CBSA submitted that it sent a first verification letter, as well as a subsequent verification letter, to American Apparel, the producer of the goods in issue, requesting information in the form of affidavits from all suppliers of the yarns used to make the goods in issue and fabric knitters, cutters and sewers of the goods in issue. It argued that, as both Massive Prints and American Apparel failed to provide the CBSA with the required information, the CBSA was entitled to withdraw the preferential tariff treatment from the goods in issue, pursuant to subsection 42.1(2) of the *Act*.[15] The CBSA further argued that, on the basis of a certificate of non-originating textile goods provided by American Apparel, certain styles of the goods in issue did not originate in a NAFTA country, as the certificate indicated that the yarn used to produce the T-shirts originated in Pakistan. Thus, it submitted that certain styles of the goods in issue did not meet the specific rule of origin for tariff item No. 6109.10.00, the tariff item that applies to the goods in issue.[16]

ANALYSIS

20. Subsection 67(1) of the *Act* provides that "[a] person aggrieved by a decision of the President [of the CBSA] made under section 60 . . . may appeal from the decision to the Canadian International Trade Tribunal . . . ." Decisions pursuant to section 60 include decisions on the origin of goods.

21. The rules of origin in *NAFTA*, as incorporated into Canadian law, provide criteria for determining whether goods are entitled to preferential tariff treatment. These rules of origin take into account where goods are produced and what materials are used to produce them.

22. Chapter Four of *NAFTA* sets out the requirements for goods to qualify as "originating good[s]", while Chapter Five establishes the requirements for certificates of origin, as well as the administration and enforcement procedures. The provisions of Chapter Four and Chapter Five are incorporated into Canadian

12. Tribunal Exhibit AP-2010-014-03.
13. S.O.R./97-333.
14. Tribunal Exhibit AP-2010-014-10A at paras. 21-22.
15. *Ibid.* 28-35.
16. Paragraph 4(2)(*a*) of the *NAFTA Rules of Origin Regulations*, S.O.R./94-14, provides that goods originate in the territory of a NAFTA country where each of the non-originating materials undergoes the applicable change in tariff classification, according to the applicable rule in Schedule I as a result of production that occurs entirely in the territory of one or more NAFTA countries, provided the goods satisfied all other applicable requirements of the *NAFTA Rules of Origin Regulations*. The specific rule of origin that relates to tariff item No. 6109.10.00 requires a change to heading No. 61.09 from any other chapter, **except**, *inter alia*, heading Nos. 52.04 to 52.12, which include various classifications for cotton yarn, provided the goods are both cut, or knit to shape, and sewn or otherwise assembled in one or more NAFTA countries.

law pursuant to the provisions of the *Act*, the *Customs Tariff*[17] and various regulations, such as the *NAFTA Rules of Origin Regulations*, the *Proof of Origin of Imported Goods Regulations*,[18] the *NAFTA Tariff Preference Regulations*[19] and the *NAFTA and CCFTA Verification of Origin Regulations*.

23. Subsection 24(1) of the *Customs Tariff* provides the general conditions that must be met in order for goods to be entitled to the benefit of a preferential tariff treatment and reads as follows:

> **24.** (1) Unless otherwise provided in an order made under subsection (2) or otherwise specified in a tariff item, goods are entitled to a tariff treatment, other than the General Tariff, under this Act only if
> (*a*) proof of origin of the goods is given in accordance with the *Customs Act*; and
> (*b*) the goods are entitled to that tariff treatment in accordance with regulations made under section 16 or an order made under paragraph 31(1)(*a*), 34(1)(*a*), 38(1)(*a*) or 42(1)(*a*), subsection 45(13), section 48 or subsection 49(2) or 49.5(8).
>
> **24.** (1) Sauf disposition contraire des décrets d'application du paragraphe (2) ou d'un numéro tarifaire, les marchandises bénéficient d'un traitement tarifaire prévu par la présente loi, à l'exception du tarif général, si les conditions suivantes sont réunies :
> *a*) leur origine est établie en conformité avec la *Loi sur les douanes*;
> *b*) elles bénéficient du traitement tarifaire accordé en conformité avec les règlements de l'article 16, ou avec les décrets ou arrêtés pris en vertu des alinéas 31(1)*a*), 34(1)*a*), 38(1)*a*) ou 42(1)*a*), du paragraphe 45(13), de l'article 48 ou des paragraphes 49(2) ou 49.5(8).

24. Therefore, in order for the goods in issue to be entitled to preferential tariff treatment under *NAFTA*, subsection 24(1) of the *Customs Tariff* requires that two conditions be met: (1) proof of origin of the goods must be given in accordance with the *Act*; and (2) the goods must be entitled to that tariff treatment in accordance with the applicable regulations or order.

25. With respect to the first condition, subsection 35.1(1) of the *Act* requires that ". . . proof of origin, in the prescribed form containing the prescribed information and containing or accompanied by the information, statements or proof required by any regulations made under subsection (4) . . . be furnished in respect of all goods that are imported."

26. In addition, subsection 35.1(5) of the *Act* provides as follows:

> (5) Preferential tariff treatment under a free trade agreement may be denied or withdrawn in respect of goods for which that treatment is claimed if the importer, owner or other person required to furnish proof of origin of the goods under this section fails to comply with any provision of this Act or the *Customs Tariff*, or any regulation made under either of those Acts, concerning that preferential tariff treatment.
>
> (5) Le traitement tarifaire préférentiel découlant d'un accord de libre-échange peut être refusé ou retiré à des marchandises pour lesquelles ce traitement est demandé dans le cas où leur importateur ou leur propriétaire, ou la personne tenue de justifier leur origine en application du présent article, ne se conforme pas à une disposition quelconque de la présente loi, du *Tarif des douanes* ou des règlements d'application de l'une ou l'autre de ces lois concernant l'application de ce traitement à ces marchandises.

17. S.C. 1997, c. 36.
18. S.O.R./98-52.
19. S.O.R./94-17.

27. In accordance with subsection 6(1) of the *Proof of Origin of Imported Goods Regulations*, where the benefit of preferential treatment under *NAFTA* is claimed for goods, the importer or owner of the goods must furnish a certificate of origin for the goods, as proof of origin. The Tribunal notes that no form of a certificate of origin is prescribed under these regulations.[20]

28. In this case, it is not disputed that Massive Prints provided a certificate of origin for the goods in issue to the CBSA. The evidence on the record indicates that the certificate of origin provided by Massive Prints described the goods in issue as 100 percent cotton T-shirts produced by American Apparel and that it specifically covered the period from January 1 to December 31, 2007. The certificate of origin certified that the goods in issue met the origin requirements specified for those goods in *NAFTA*[21] and indicated that Massive Prints relied on American Apparel's written representation that the goods in issue qualified as originating goods as the basis for providing the certificate of origin.

29. However, the disagreement in this appeal stems from the verification of origin that the CBSA undertook in 2008 in order to verify that the information contained in the certificate of origin was correct. In particular, Massive Prints disagrees with the denial of preferential treatment of the goods in issue and also appears to disagree with the manner by which the CBSA conducted its verification of origin.

30. The Tribunal notes that the decision under appeal says nothing of the validity of the certificate of origin *per se*. However, it is clear from the decision that the CBSA was motivated by the failure of both American Apparel and Massive Prints to provide the information necessary to support the claim for preferential tariff treatment under *NAFTA*. In that light, the Tribunal will examine whether the CBSA's decision to reject Massive Prints' claim for these reasons is correct or whether it should be reversed. In other words, the Tribunal will examine whether both American Apparel and Massive Prints indeed failed to provide the information that would have demonstrated that the goods in issue met the requirements of the *NAFTA* rules of origin.

31. With respect to the methods available to the CBSA when conducting a verification of origin, subsection 42.1(1) of the *Act* provides as follows:

> **42.1** (1) Any officer, or any officer within a class of officers, designated by the President for the purposes of this section, or any person, or any person within a class of persons, designated by the President to act on behalf of such an officer, may, subject to the prescribed conditions,
> (*a*) conduct a verification of origin of goods for which preferential tariff treatment under a free trade agreement, other than CEFTA, is claimed
> (i) by entering any prescribed premises or place at any reasonable time, or
> (ii) in the prescribed manner . . . .

> **42.1** (1) L'agent chargé par le président, individuellement ou au titre de son appartenance à une catégorie d'agents, de l'application du présent article ou la personne désignée par le président, individuellement ou au titre de son appartenance à une catégorie, pour agir pour le compte d'un tel agent peut, sous réserve des conditions réglementaires :
> *a*) vérifier l'origine des marchandises faisant l'objet d'une demande de traitement tarifaire préférentiel découlant d'un accord de libre-échange autre que l'ALÉCA :

20. Article I.1 of the *Uniform Regulations for the Interpretation, Application, and Administration of Chapters Three (National Treatment and Market Access for Goods) and Five (Customs Procedures) of the North American Free Trade Agreement*, which were adopted by the Governments of Canada, Mexico and the United States pursuant to Article 511(1) of *NAFTA* (in Canada, these regulations are contained in the Appendix to Memorandum D11-4-18 published by the CBSA), provides that the certificate of origin referred to in Article 501(1) of *NAFTA* is equivalent in substance to the certificate of origin set out in Annex I.1a. Annex I.1a, in turn, makes reference to Form B232 E and also provides instructions for completion of the certificate.

21. Tribunal Exhibit AP-2010-014-10A, tab 12.

> i) soit en pénétrant, à toute heure raisonnable, dans un lieu faisant partie d'une catégorie réglementaire,
> ii) soit de toute autre manière prévue par règlement [...].

32. Furthermore, section 2 of the *NAFTA and CCFTA Verification of Origin Regulations* provides as follows:

> **2.** In addition to a verification visit, an officer may conduct a verification of origin of goods in any of the following manners:
> (*a*) by reviewing a verification questionnaire completed by
> (i) the exporter or producer of the goods, or
> (ii) a producer or supplier of a material that is used in the production of the goods;
> (*b*) by reviewing a written response received from a person referred to in paragraph (*a*) to a verification letter; or
> (*c*) by reviewing any other information received from a person referred to in paragraph (*a*).
>
> **2.** Outre la visite de vérification, l'agent peut effectuer la vérification de l'origine de marchandises par l'examen :
> *a*) d'un questionnaire de vérification rempli, selon le cas :
> (i) par l'exportateur ou le producteur des marchandises,
> (ii) par le producteur ou le fournisseur d'une matière utilisée dans la production des marchandises;
> *b*) de la réponse écrite de l'une des personnes visées à l'alinéa *a*) à une lettre de vérification;
> *c*) d'autres renseignements reçus de l'une des personnes visées à l'alinéa *a*).

33. The Tribunal finds that there is evidence which demonstrates that the CBSA notified American Apparel that it was conducting a verification of origin of the goods in issue on August 19, 2008, in accordance with section 42.1 of the *Act*.[22] The correspondence clearly requested that American Apparel provide detailed information relating to the suppliers of the yarns used to make the goods in issue and the fabric knitters and cutters of the goods in issue, stating locations where these operations take place. The letter further notified American Apparel that, if the requested information was not provided, it could render invalid the certificates of origin from Massive Prints, resulting in the withdrawal of the preferential tariff treatment for the goods in issue under *NAFTA*.[23]

34. The evidence also shows that a second letter was sent to American Apparel on September 3, 2008, again requesting information relating to the goods in issue and, again, stating that failure to submit the information could result in the withdrawal of the preferential tariff treatment.[24]

35. Massive Prints did not contest the evidence that the CBSA had notified American Apparel that it was conducting a verification of origin, pursuant to section 42.1 of the *Act*. It submitted only that it had been informed by American Apparel that it never received the CBSA's letters regarding a *visit* to their facility. The Tribunal finds that there is nothing in the *Act* or in the applicable regulations that requires the CBSA to

22. *Transcript of Public Hearing*, 1 February 2011, at 6-12. Mr. Trudel testified that the CBSA verifies origin because, at the time of importation, an importer declaration with respect to the origin, value and tariff classification of the imported goods is based on an assessment by the importer. Therefore, the CBSA provides a monitoring function, whereby it verifies the accuracy of declarations after the goods have entered the country. Mr. Trudel explained that, in order to verify the origin of goods, the CBSA uses letters and questionnaires sent to the exporter or producer of the goods, asking it to provide information on how it deemed the goods qualified under *NAFTA*. He further explained that the conduct of an on-site visit depends on the level of risk that the CBSA assesses in a particular case, as well as on the information that the CBSA has on hand.
23. Tribunal Exhibit AP-2010-014-10A, tab 2.
24. *Ibid.*, tab 3.

conduct a site visit to a producer's facility in order to verify whether goods qualify as originating goods and whether they are eligible for preferential tariff treatment. Indeed, the *NAFTA and CCFTA Verification of Origin Regulations* provide several methods that the CBSA may employ when conducting a verification of origin of goods, in addition to a site visit.

36. With respect to the withdrawal of preferential tariff treatment, subsection 42.1(2) of the *Act* provides as follows:

> **42.1** (2) If an exporter or producer of goods that are subject to a verification of origin under paragraph (1)(*a*) fails to comply with the prescribed requirements or, in the case of a verification of origin under subparagraph (1)(*a*)(i), does not consent to the verification of origin in the prescribed manner and within the prescribed time, preferential tariff treatment under a free trade agreement, other than CEFTA, may be denied or withdrawn from the goods.
>
> **42.1** (2) Dans le cas où l'exportateur ou le producteur ne se conforme pas aux exigences réglementaires de la vérification prévue à l'alinéa (1)*a*) ou, s'agissant d'une visite prévue au sous-alinéa (1)*a*)(i), n'y consent pas suivant les modalités — de temps et autres — réglementaires, le traitement tarifaire préférentiel demandé en vertu d'un accord de libre-échange autre que l'ALÉCA peut être refusé ou retiré aux marchandises en cause.

37. In addition, paragraph 13(*c*) of the *NAFTA and CCFTA Verification of Origin Regulations* provides as follows:

> **13.** For the purposes of subsection 42.1(2) of the Act, preferential tariff treatment under NAFTA or preferential tariff treatment under CCFTA may be denied or withdrawn from the goods that are the subject of a verification of origin where the exporter or producer of the goods
> . . .
> (*c*) to whom a subsequent verification letter or subsequent verification questionnaire is sent under section 12 does not respond to the subsequent verification letter or complete the subsequent verification questionnaire and return it to an officer within 30 days after the date on which the subsequent verification letter or subsequent verification questionnaire is
> (i) received, where the subsequent verification letter or subsequent verification questionnaire is sent in accordance with paragraph 18(*a*), or
> (ii) sent, where the subsequent verification letter or subsequent verification questionnaire is sent in accordance with paragraph 18(*b*).
>
> **13.** Pour l'application du paragraphe 42.1(2) de la Loi, le traitement tarifaire préférentiel de l'ALÉNA ou celui de l'ALÉCC, selon le cas, peut être refusé ou retiré aux marchandises qui font l'objet d'une vérification de l'origine dans les cas suivants :
> [...]
> *c*) une seconde lettre ou un second questionnaire est envoyé à l'exportateur ou au producteur des marchandises conformément à l'article 12 et l'exportateur ou le producteur ne répond pas à la lettre ou ne retourne pas le questionnaire rempli à l'agent dans les 30 jours suivant :
> (i) la date de réception, dans le cas où la lettre ou le questionnaire a été envoyé conformément à l'alinéa 18*a*);
> (ii) la date d'envoi, dans le cas où la lettre ou le questionnaire a été envoyé conformément à l'alinéa 18*b*).

38. The Tribunal is satisfied that, on the basis of the evidence submitted in the present appeal, American Apparel did not provide the required information in response to the verification letters sent to it by the CBSA. In fact, the CBSA submitted e-mail documentation indicating that American Apparel was fully aware that the CBSA was requesting specific information regarding the origin of the goods in issue, but

failed to submit the specific information.[25] Therefore, the Tribunal is of the view that the CBSA could not confirm whether the goods in issue were entitled to the preferential tariff treatment claimed by Massive Prints.

39. The Tribunal notes that the only information that appears to have been provided by American Apparel was a certificate of non-originating textile goods, which demonstrated that, for certain styles of the goods in issue, the yarn used to produce the T-shirts originated in Pakistan. The Tribunal accepts that this information provides the CBSA with an additional basis for denying preferential tariff treatment to certain styles of the goods in issue, as it provides evidence that those styles of goods do not meet the specific rule of origin for T-shirts.

40. The Tribunal is satisfied that there was a reasonable basis for the CBSA to exercise its powers under the *Act* to withdraw preferential treatment under *NAFTA*, pursuant to subsection 42.1(2) of the *Act*. In determining the origin of goods, the CBSA must act within the boundaries of the *Act* and the applicable regulations. The Tribunal does not find that there is adequate evidence before it to make a finding that the goods in issue meet the requirements for preferential tariff treatment on the basis of its review of the matter.

DECISION

41. For the foregoing reasons, the appeal is dismissed.

Serge Fréchette
Serge Fréchette
Presiding Member

25. *Ibid.*, tab 13. On September 4, 2008, the CBSA was copied on an e-mail from American Apparel requesting that someone at American Apparel respond to the CBSA's request by September 15, 2008.