

# TEXTILE & APPAREL COUNTRY OF ORIGIN RULES:

## INTERPRETATION GUIDELINES TEXTILE AND APPAREL PRODUCTS

### *Principles of New U.S. Country of Origin Rules Pursuant to 19 CFR 102.21*

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*NOTE: The following guidelines are intended to help Customs Attaches in foreign countries to interpret the new textile rules of origin. These are only a guide, but they provide the basis of the new rules in a format that should be useful to exporters. Likewise, there have been many questions from field import specialists and other customs officers. This has answers to many of the questions that we have been receiving from both the filed and importers. For that reason we are making them available to Customs personnel, brokers and importers as well as foreign exporters. These guidelines do not supersede any official documents of customs and should only be used as a general guide. However, they have been reviewed for content by the attorneys at ORR and by the National Import Specialists.*

*The following principles are an interpretation of the new rules to determine the country of origin for textile and apparel products. The principles listed below are provided as a guide, and as such they do not have any legal standing. Exact legal terminology and official wording can be found in section 102.21, Customs Regulations (19 CFR 102.21), and in the law at section 334 (the Breaux Amendment) of the Uruguay Round legislation.*

**EFFECTIVE DATE:** The new country of origin rules will apply to textile and apparel products (see below for coverage) entered, or withdrawn from warehouse, for consumption on or after July 1, 1996. This date is set by law and does not provide for a grace period, shipments on the water, time entered into the port limits, entry rejects or any other exceptions (besides pre-existing contracts).

### **THE NEW RULES**

The following rules do not provide for cutting components or cutting and hemming to confer country of origin as in the past. The basis of the new law is processing operations or assembly (except, see "Pre-existing Contracts" and the "Israel" and "Insular Possession" exceptions, *infra*).

#### **Wholly Produced**

The country of origin is the country in which a product is wholly produced when a textile or apparel product is completely produced or manufactured (except for minor parts) in one country.

#### **Yarn, Including Single and Multiple Yarns**

The country of origin of yarn, thread, twine, cordage, rope, braiding, etc., is:

- a. Staple yarn, etc. - the country in which yarn is spun
- b. Filament yarn, etc. - the county in which filament is extruded
- c. Plied, gimped and cabled yarns, etc. - the country in which the fibers or filaments used in the yarn are spun or extruded

## **Fabric**

The country of origin of a fabric is the country in which the fabric is woven, knitted, needled, tufted, felted, entangled or created by any other fabric making process. (A fabric making process is any process that results in a fabric being created).

NOTE: The country of origin of quilted fabrics is the country in which the fabrics are produced (one of the specific exceptions listed below).

NOTE: In the new country of origin rules objective tariff shifts are substituted for substantial transformation: therefore, dyeing and/or printing or other finishing processes applied to fabrics do not confer or change the country of origin.

## **All Other Textile Products**

The country of origin of all other textile and apparel products is the country in which the components of a textile or apparel product are wholly assembled (except for minor attachments such as buttons, heads, spangles, embroidery, etc., or minor subassemblies such as collars, cuffs, pockets, plackets, etc.)

NOTE: The major change (particularly for apparel) in the new rules is that assembly, not cutting, confers country of origin.

EXCEPT:

- a. The country of origin of knit-to-shape products is the country in which major parts are knitted or crocheted directly to the shape used in the finished product.

NOTE: Knit-to-shape means that the panels or parts (except minor parts such as collars, cuffs, waistbands, plackets, pockets, linings, pads, trim or similar parts) are knit to the shape used in the final assembly process (rather than knit into a tube or blanket of material that is cut to shape). Minor cutting, sewing or assembly does not affect whether components are knit to shape. Knit-to-shape applies when 50 percent or more of the exterior surface area (not including patch pockets, appliqués, etc.) is knitted or crocheted.

NOTE: For hosiery, the addition of gussets or top elastics or the closing of toes does not affect the status of knit-to-shape.

And, EXCEPT the articles in the following 16 specified Harmonized Tariff System (HTS) classifications (the HTS classification is followed by a general description):

- b. Articles Produced From Yarns

5609 - the country of origin of articles made from yarn, strips, twine, cordage, rope or cables is the country in which the yarn, etc., is produced.

- c. Articles Produced From Fabric

The country or origin of certain articles made from fabric in the following HTS classifications is the country in which the fabric is produced:

- 5807 - Labels, badges, emblems
- 5811 - Quilted textile products in the piece, or lengths or rolls of quilted fabrics to be cut and hemmed
- 6209.20.5040 - Baby diapers
- 6213 – Handkerchiefs
- 6214 - Shawls, scarves, mufflers, mantillas, veils, etc.

- 6301 - Blankets, traveling rugs
- 6302 - Bed linen, table linen, toilet linen, kitchen linen
- 6303 - Curtains, drapes, interior blinds, valances
- 6304 - Bedspreads, furnishings
- 6305 - Sacks and bags for packing
- 6306 - Tarpaulins, awnings, sun-blinds, tents, sails, camping goods
- 6307.10 - Dust cloths, mop cloths, polishing cloths, shop towels, bar mops, dish cloths
- 6307.90 - Labels, cords, tassels, corset and footwear lacings, toys for pets, wall banners, surgical towels, tufted towels, pillow shells, quilt shells, comforters, national flags, moving pads
- 6308 - Needlecraft sets
- 9404.90 - Pillows, cushions, quilts, comforters

### **Multi-Country Rule**

If the country of origin of a textile or apparel product cannot be determined by one of the above rules because the product is created as a result of processing in two or more countries, the country of origin is:

- a. The country in which the **most important assembly or most important manufacturing process** occurs.

NOTE: The most important processing operations must be determined on a case-by-case basis through binding rulings and court decisions. The resulting body of rulings and court decisions may serve as guidelines in the future.

NOTE: Because the most important processing operation can only be determined on a case-by-case basis, binding rulings should be requested from:

U.S. Customs Service  
 Director, National Commodity Division/CIE  
 ATTN: Binding Rulings Section  
 6 World Trade Center Rm. 437  
 New York, NY 10048

or

U.S. Customs Service  
 Office of Rulings and Regulations  
 1301 Constitution Ave., NW  
 Washington, DC 20229

The requestor should be sure to specify that the ruling is requested pursuant to section 334 or the new rules of origin; otherwise, consideration will be given to the facts under the current rules of origin until July 1, 1996, and a brief opinion will be provided for the country of origin under the new rules. A sample (or drawings if a sample is not practical) showing exact subassemblies should be submitted with the request for ruling. Rulings requested from New York should be answered within 30 days if information provided by the requestor is complete.

- b. If the most important assembly or manufacturing process cannot be determined, e.g., if the right half of a coat is assembled in one country and the left half is assembled in another

country, then the country of origin is probably the country in which the two halves are sewn together (i.e., **the last country in which an important processing operation occurred**) because each half is equally important.

- c. More realistically, if one yarn of a plied yarn is produced in one country and the other yarn is produced in a second country, and the yarns are twisted to form a cable, then the country in which the yarns are twisted together is the country of origin because each yarn is equally important and you have to resort to the last country in which important processing occurred.

The multiple country scenario also applies to the production of certain tents (note the exception for heading 6306) assembled from fabrics produced in two different countries and sewn together in a third country. The third country is the country of origin.

### **HIERARCHY OF RULES**

The above rules are arranged in a hierarchy to be applied in the following sequential order as specified in 19 CFR 102.21c:

- a. Textile or apparel products wholly produced in one country.
- b. Each foreign material undergoes requisite tariff shift (as provided in 19 CFR 102.21).  
EXPLANATION: All textile and apparel products are listed by 4-digit to 10-digit HTS classifications or groups of classifications in the tariff shift rules. The tariff shift rules simply explain the requirements to change the country of origin of textile and apparel products (as shown in the preceding section) by using tariff classifications rather than textile or apparel product descriptions. A tariff shift states that, for any given classification, to change the country or origin of a textile or apparel product there must be a shift from one HTS classification to another as listed in the tariff shift rules and/or the processing must meet any other requirement that is specified in the tariff shift rules in Customs Regulation 102.21.

EXAMPLE: One group of classifications in the tariff shift rules is 5208 through 5212, which contain the classifications for cotton woven fabrics. The tariff shift rule for headings 5208-5212 states that:

1. There must be a change to 5208-5212 (cotton woven fabrics) from any classification outside that group of classifications, and
2. The change to 5208-5212 must result from a fabric forming process.

To confer country of origin to a cotton fabric, the creation of fabric must be from some product other than another cotton woven fabric; for example, the fabric could be formed from cotton yarns, or from polyester and cotton yarns, from fibers or any other product except cotton woven fabric (e.g., joining two narrow fabrics). The second requirement of creating a fabric from a fabric forming process must also be met. NOTE: This tariff shift rule merely restates the fabric rule (in the section above) using tariff classification terms or definitions.

The result is that the determination of the country of origin is defined in objective tariff classification shifts rather than subjective terms such as substantial assembly or new commercial product. By using HTS classifications, there is no doubt when a change in the country of origin occurs. If a shipper knows the classification of a textile product he is exporting, he merely has to locate the classification in the tariff shift rules to see if the required change of classifications occurred when the product was produced or manufactured. If the tariff shift has occurred and any other listed requirement is met, then the country of origin is changed by the processing.

For example, the tariff classification for 5204 through 527 (cotton yarns) states that the shift must be from any other heading provided that the change or shift results from a spinning process. This defines the country of origin for spun yarns (see above). The tariff shift for 5208 through 5212 requires a shift from classifications for yarns, fibers or filaments that result from a fabric making process. Similarly, shifts for 6302 require that the country of origin of bed sheets and pillow cases must be from the fabric forming process, i.e., the country in which the fabric was woven and not the country in which the fabric for the sheets and pillow cases was cut and converted, as defined in one of the listed exceptions above.

3. Textile or apparel products for which the major components are knit-to-shape.
4. Textile or apparel products wholly assembled in one country except for the 16 specified exceptions. When the product is produced in two or more countries and the country of origin cannot be determined by the four rules above, the country of origin is:
5. The country in which the most important processing occurs, and, if that cannot be determined,
6. The last country in which an important processing operation occurs.

NOTE: Cutting does not confer country of origin. The above rules are based on assembly operations, not on cutting.

### **SPECIAL CONSIDERATIONS**

**Sets** - If one or more components in a set are textile articles and there is no single country of origin for these components, the country of origin for each textile component of the set is determined separately. A composite good will continue to be considered as one combined good.

**Israel** - Israel is an exception to the new country origin rules. The country of origin for textile and apparel products from Israel will continue to be determined by the current rules in 19 CFR 12.130, e.g., the country in which the components are cut, except for, in general, tailored or complex garments.

**Insular Possessions** - The new country of origin rules will apply to the insular possessions of the United States. The new rules (19 CFR 102.21) will be used to determine whether the goods qualify as a product of the insular possession under General Note 3 (a)(iv) of the Harmonized Tariff Schedules of the United States.

However, Customs will continue to follow past rulings to determine whether foreign fabric has been subjected to a double substantial transformation test for purposes of the 50 percent foreign material content restriction under General Note 3(a)(iv). Cutting will continue to be used to maintain current status in achieving a double substantial transformation. The first portion of the substantial transformation test occurs when fabric is cut into components, while the second occurs when the components are assembled into wearing apparel. In determining whether the apparel meets the 50 percent foreign value limitation, these components are (and will continue to be) treated as materials produced in the insular possession rather than as foreign materials.

NOTE: This concept results in the fact that textile and apparel products produced in the insular possession and currently qualify for duty free treatment will continue to enter the U.S. commerce free of duties.

**9802: Components cut in the U.S. From Foreign Fabrics and Assemble Abroad - The value of components cut in the U.S. from foreign fabric and exported for assembly abroad are not included in the dutiable value of the finished article imported into the U.S. (19 CFR 10.25). EXCEPT: Components merely cut to length and/or width.**

**Components Cut in the U.S. From Foreign Fabric:**

- a. For textile and apparel products that do not have category numbers (e.g., umbrellas, parachutes), as well as all footwear and parts of footwear, assembled in a Caribbean Basin Initiative (CBI) country from components that were cut to shape in the U.S. from foreign fabric, the assembled textile articles are not subject to duty.

NOTE: Cut-to-shape components do not include pieces merely cut to length and/or width.

NOTE: This provision is necessary in the Statute because in the new country of origin rules cutting does not confer country of origin, and therefore components cut in the U.S. of foreign fabric are not considered to be U.S. products under the provisions of the new rules of origin. The definition of textile and apparel products includes articles that were not considered as textile articles prior to implementation of the new World Trade Organization definitions. This provision continues the current duty free treatment under U.S. Note 2(b), Subchapter II, Chapter 98, HTSUS.

- b. The value of the components cut in the U.S. from foreign fabric, up to the 15 percent cap for U.S. origin materials, may be applied toward determining the minimum 35 percent requirement to qualify for the benefits of CBI.

**NAFTA Override - Any NAFTA override rules currently in existence will continue to be applied if a NAFTA preference is claimed.**

For example, China is the country of origin of comforter shells and also the country of origin of down used to fill the shells. Both of these components are sent to Canada where the down is inserted into the shells. The country of origin of the finished comforter under the new rules of origin (section 334 or 19 CFR 102.21) is China. However, NAFTA provides for an override rule that applies if a claim is made. Because the processing in Canada (a NAFTA country) satisfies the NAFTA preference rule of origin, if a claim is made for Canada as the preference of country of origin at the time of entry (or within one year), the country of origin is Canada. The NAFTA preference rule continues to override the new country of origin rules in determining the country of origin for NAFTA products.

**U.S. Goods Sent Abroad for Processing - For Chapter 9802 goods only, when a U.S. produced textile is sent abroad for processing and is advanced in value:**

- a. Note 2(a) to Chapter 98, subchapter 2 will continue to apply for duty assessment;
- b. 19 CFR 12.130c will continue to apply for quota purposes; and
- c. The new section 102.21 will apply for marking purposes.

**Coverage** - In addition to the textile items found in Chapters 50 through 63 of the HTS classifications and any other HTS classifications with category numbers, the following textile items in the HTS classifications listed below also have been defined by the World Trade Organization as textile and apparel products and are subject to the new U.S. country of origin rules for textile and apparel products:

- 3005 - Non-adhesive wadding, gauze bandages
- 3921 - PVC and PU sheets, film, etc.
- 4202 - Luggage, handbags, etc.
- 6605 - Footwear of textiles
- 6601 – Umbrellas
- 7019 - Fiberglass yarns and fabrics
- 8708 - Automobile seat belts
- 8804 – Parachutes
- 9113 - Watch straps
- 9404 - Comforters, quilts, pillows
- 9502 - Doll clothing
- 9612 - Typewriter ribbons

The specific classifications of the above products up to 10 digits can be found in the Federal Register, Vol. 60, No. 171, September 5, 1995, and in 19 CFR 102.21(e). [Ed. Note: See CR issue 397, App. II]

**Major Changes Between the Old and New Rules:**

- a. Cutting does not determine the country or origin (previously cutting determined country of origin for 90 percent of wearing apparel imports). The new rules are based on processing or assembly operations.
- b. Essential character does not determine country of origin because the new rules are based on processing.
- c. A subjective determination under the provisions of 19 CFR 12.130 is replaced by objective processing operations expressed in terms of tariff shifts.
- d. Country of origin for textile and apparel products processed, assembled or manufactured in two or more countries is determined by where the most important processing occurs, and, if that cannot be ascertained, the last country in which an important processing operations occurs.

**Textile Declaration and Quota Charge Statement:**

The single or multiple country of origin declaration as shown in 19 CFR 12.10(f) will continue to be required after implementation of the new rules of origin.

The quota charge statement will continue to be required after implementation of the new rules of origin.