

of new technology or operational procedures regarding the processing of passengers, vessels, or merchandise, the Commissioner of Customs may impose requirements different from those specified in the Customs Regulations, but only to the extent that such different requirements do not affect the collection of the revenue, public health, safety, or law enforcement. The imposition of any such different requirements shall be subject to the following conditions:

(1) *Defined purpose.* The test is limited in scope, time, and application to such relief as may be necessary to facilitate the conduct of a specified program or procedure;

(2) *Prior publication requirement.* Whenever a particular test allows for deviation from any regulatory requirements, notice shall be published in the FEDERAL REGISTER not less than thirty days prior to implementing such test, followed by publication in the Customs Bulletin. The notice shall invite public comments concerning the methodology of the test program or procedure, and inform interested members of the public of the eligibility criteria for voluntary participation in the test and the basis for selecting participants.

(b) *NCAP testing.* For purposes of conducting an approved test program or procedure designed to evaluate planned components of the National Customs Automation Program (NCAP), as described in section 411(a)(2) of the Tariff Act of 1930 (19 U.S.C. 411), the Commissioner of Customs may impose requirements different from those specified in the Customs Regulations, but only to the extent that such different requirements do not affect the collection of the revenue, public health, safety, or law enforcement. In addition to the requirement of paragraph (a)(1) of this section, the imposition of any such different requirements shall be subject to the following conditions:

(1) *Prior publication requirement.* For tests affecting the NCAP, notice shall be published in the FEDERAL REGISTER not less than thirty days prior to implementing such test, followed by publication in the Customs Bulletin. The notice shall invite public comments concerning any aspect of the test program or procedure, and inform inter-

ested members of the public of the eligibility criteria for voluntary participation in the test and the basis for selecting participants; and,

(2) *Post publication requirement.* Within a reasonable time period following the completion of the test, a complete description of the results shall be published in both the FEDERAL REGISTER and the Customs Bulletin.

[T.D. 95-21, 60 FR 14214, Mar. 16, 1995]

PART 102—RULES OF ORIGIN

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APPENDIX TO PART 102—TEXTILE AND APPAREL MANUFACTURER IDENTIFICATION

AUTHORITY: 19 U.S.C. 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1624, 3314, 3592.

SOURCE: T.D. 94-4, 59 FR 113, Jan. 3, 1994, unless otherwise noted.

§ 102.0 Scope.

With the exception of §§102.21 through 102.25, this part sets forth rules for determining the country of origin of imported goods for the purposes specified in paragraph 1 of Annex 311 of the North American Free Trade Agreement (“NAFTA”). These specific purposes are: country of origin marking; determining the rate of duty and staging category applicable to originating textile and apparel products as

set out in Section 2 (Tariff Elimination) of Annex 300-B (Textile and Apparel Goods); and determining the rate of duty and staging category applicable to an originating good as set out in Annex 302.2 (Tariff Elimination). The rules set forth in §§102.1 through 102.21 of this part will also apply for purposes of determining whether an imported good is a new or different article of commerce under §10.769 of the United States-Morocco Free Trade Agreement regulations and §10.809 of the United States-Bahrain Free Trade Agreement regulations. The rules for determining the country of origin of textile and apparel products set forth in §102.21 apply for the foregoing purposes and for the other purposes stated in that section. Section 102.22 sets forth rules for determining whether textile and apparel products are considered products of Israel for purposes of the customs laws and the administration of quantitative limitations. Sections 102.23 through 102.25 set forth certain procedural requirements relating to the importation of textile and apparel products.

[CBP Dec. 05-32; 70 FR 58013, Oct. 5, 2005, as amended by CBP Dec. 07-81, 72 FR 58522, Oct. 16, 2007; CBP Dec. 08-29, 73 FR 45354, Aug. 5, 2008]

Subpart A—General

§ 102.1 Definitions.

(a) *Advanced in value*. “Advanced in value” means an increase in the value of a good as a result of production with respect to that good, other than by means of those “minor processing” operations described in paragraphs (m)(5), (m)(6), and (m)(7) of this section.

(b) *Commingled*. “Commingled” means physically combined or mixed.

(c) *Direct physical identification*. “Direct physical identification” means identification by visual or other organoleptic examination.

(d) *Domestic material*. “Domestic material” means a material whose country of origin as determined under these rules is the same country as the country in which the good is produced.

(e) *Foreign material*. “Foreign material” means a material whose country of origin as determined under these rules is not the same country as the country in which the good is produced.

(f) *Fungible goods or fungible materials*. “Fungible goods or fungible materials” means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical.

(g) *A good wholly obtained or produced*. A good “wholly obtained or produced” in a country means:

(1) A mineral good extracted in that country;

(2) A vegetable or plant good harvested in that country;

(3) A live animal born and raised in that country;

(4) A good obtained from hunting, trapping or fishing in that country;

(5) A good (fish, shellfish and other marine life) taken from the sea by vessels registered or recorded with that country and flying its flag;

(6) A good produced on board factory ships from the goods referred to in paragraph (g)(5) of this section, provided such factory ships are registered or recorded with that country and fly its flag;

(7) A good taken by that country or a person of that country from the seabed or beneath the seabed outside territorial waters, provided that country has rights to exploit such seabed;

(8) A good taken from outer space, provided they are obtained by that country or a person of that country;

(9) Waste and scrap derived from:

(i) Production in a country, or

(ii) Used goods collected in that country provided such goods are fit only for the recovery of raw materials; and

(10) A good produced in that country exclusively from goods referred to in paragraphs (g)(1) through (10) of this section or from their derivatives, at any stage of production.

(h) *Harmonized System*. “Harmonized System” means the Harmonized Commodity Description and Coding System, including its general rules of Interpretation, Section Notes and Chapter Notes, as adopted and implemented by the United States.

(i) *Improved in condition*. “Improved in condition” means the enhancement of the physical condition of a good as a result of production with respect to that good, other than by means of those “minor processing” operations