

COMMISSION REGULATION (EEC) No 1364/91

of 24 May 1991

determining the origin of textiles and textile articles falling within Section XI of the combined nomenclature

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 802/68 of 27 June 1968 on the common definition of the concept of origin of goods ⁽¹⁾, as last amended by Regulation (EEC) No 456/91 ⁽²⁾, and in particular Article 14 thereof,

Whereas firstly :

- Article 5 of Regulation (EEC) No 802/68 lays down that a product, in the production of which two or more countries were concerned, shall be regarded as originating in the country in which the last substantial process or operation that is economically justified was performed, having been carried out in an undertaking equipped for the purpose, and resulting in the manufacture of a new product or representing an important stage of manufacture,
- in order to take account of the complexity of certain manufacturing processes, it is necessary to adopt provisions in order to specify the application of this Article 5 in relation to particular products,
- with regard to textiles and textile articles falling within Section XI of the combined nomenclature, the criteria laid down in Article 5 may be considered to be fulfilled where the products obtained have undergone one complete process constituting an important stage of manufacture ; this is normally the case where the working or processing results in the product obtained receiving a classification under a heading other than those covering the various materials utilized ; it is necessary, however, in the case of certain textile products to lay down specific conditions, either additional to the rule of the change of heading or by way of exception to this rule ;

Whereas secondly :

- some of the provisions presently applied to interpret Article 5 of Regulation (EEC) No 802/68 use the Common Customs Tariff nomenclature, which is itself based on the Customs Cooperation Council nomenclature,
- this has been replaced by the harmonized commodity description and coding system which is applied in the Community by means of the combined nomenclature,

— it is therefore necessary to adapt as appropriate the relevant provisions to take account of this change in nomenclature ;

Whereas thirdly

- it is appropriate to integrate in a single text all the provisions on textiles and textile articles falling within Section XI of the combined nomenclature adopted by the Commission to interpret Regulation (EEC) No 802/68 in accordance with the procedure defined in Article 14 thereof, with a view to facilitating the work of users and customs administration,
- this integration has to be accompanied by some modifications of the presentation or the wording of the existing provisions,
- it is desirable on this occasion to reformulate the provisions relating to printed or dyed fabrics, including knitted or crocheted fabrics, with a view to clarifying their content,
- it is also desirable to separately specify grege silk and silk waste as products on the basis of which working or processing may be carried out, to avoid any confusion as to whether they are products already prepared for spinning, which point has also been covered in an explanatory note ;
- it is also necessary to modify the provisions adopted in interpretation of Article 5 of Regulation (EEC) No 802/68 in relation to textile yarns to take into account the Judgment of the Court of Justice of 23 March 1983 in Case 162/82 ⁽³⁾ ; a new rule for dyeing and printing of yarn has now been formulated as a result of detailed studies of manufacturing operations and following consultations with the economic sector concerned ; this rule closely reflects the manufacturing realities involved in dyeing and printing of yarn and confirms the objective distinction between the nature of such operations carried out on yarn and on fabrics ;

Whereas the provisions of this Regulation are in accordance with the opinion of the Committee on Origin,

HAS ADOPTED THIS REGULATION :

Article 1

This Regulation lays down, for textiles and textile articles falling within Section XI of the combined nomenclature, the working or processing which shall be regarded as

⁽¹⁾ OJ No L 148, 28. 6. 1968, p. 1.

⁽²⁾ OJ No L 54, 28. 2. 1991, p. 4.

⁽³⁾ [1983] ECR, p. 1101.

satisfying the criteria provided in Article 5 of Regulation (EEC) No 802/68 and shall confer on the products concerned the origin of the country in which they were carried out.

'Country' means either a third country or the Community as appropriate.

Article 2

For textiles and textile articles falling within Section XI of the combined nomenclature, a complete process, as specified in Article 3, shall be regarded as a working or processing conferring origin in terms of Article 5 of Regulation (EEC) No 802/68.

Article 3

Working or processing as a result of which the products obtained receive a classification under a heading of the combined nomenclature other than those covering the various non-originating materials used shall be regarded as complete processes.

However, for products listed in Annex II, only the specific processes referred to in column 3 of that Annex in connection with each product obtained shall be regarded as complete, whether or not they involve a change of heading.

The method of applying the rules in Annex II is described in the introductory notes of Annex I.

Article 4

For purposes of Article 3, the following shall in any event be considered as insufficient working or processing to confer the status of originating products irrespective of whether or not there is a change of heading:

- (a) operations to ensure the preservation of products in good condition during transport and storage (ventila-

tion, spreading out, drying, removal of damaged parts and like operations);

- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles), washing, cutting-up;
- (c) (i) changes of packing and breaking-up and assembly of consignments;
- (ii) simple placing in bags, cases, boxes, fixing on cards or boards, etc., and all other simple packing operations;
- (d) the affixing of marks, labels or other like distinguishing signs on products or their packaging;
- (e) simple assembly of parts of products to constitute a complete product;
- (f) a combination of two or more operations specified in (a) to (e).

Article 5

The term 'value' used in Annex II shall mean the customs value at the time of import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price for such materials in the country of processing. The term 'ex-works price' used in Annex II shall mean the ex-works price of the product obtained, less any internal taxes refunded or refundable, on exportation.

Article 6

Commission Regulations (EEC) No 1039/71 ⁽¹⁾, (EEC) No 1480/77 ⁽²⁾, (EEC) No 749/78 ⁽³⁾ are hereby repealed.

Article 7

This Regulation shall enter into force three days after its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 24 May 1991.

For the Commission

Christiane SCRIVENER

Member of the Commission

⁽¹⁾ OJ No L 113, 25. 5. 1971, p. 13.

⁽²⁾ OJ No L 164, 2. 7. 1977, p. 16.

⁽³⁾ OJ No L 101, 14. 4. 1978, p. 7.

ANNEX I

INTRODUCTORY NOTES TO THE LISTS OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

GENERAL CONSIDERATIONS

Note 1

- 1.1. The first two columns in the list in Annex II describe the product obtained. The first column gives the heading number, or the chapter number, used in the combined nomenclature and the second column gives the description of goods used in the combined nomenclature for that heading or chapter. For each entry in the first two columns, a rule is specified in column 3. Where the entry in the first column is preceded by an 'ex', this signifies that the rules in column 3 only applies to the part of that heading or chapter as described in column 2.
- 1.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of product in column 2 is therefore given in general terms, the adjacent rule in column 3 applies to all products which, under the combined nomenclature, are classified in headings of the chapter or in any of the headings grouped together in column 1.
- 1.3. Where the list includes different rules applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rule in column 3.

Note 2

- 2.1. The term 'manufacture' covers any kind of working or processing including 'assembly' or specific operations.
- 2.2. The term 'material' covers any 'ingredient', 'raw material', 'component' or 'part', etc., used in the manufacture of the product.
- 2.3. The term 'product' refers to the product being manufactured, even if it is intended for later use in another manufacturing operation.

Note 3

- 3.1. The working or processing required by a rule in column 3 has to be carried out only in relation to the non-originating materials used. The restrictions contained in a rule in column 3 likewise apply only to the non-originating materials used.
- 3.2. If a product, made from non-originating materials, which has itself acquired originating status during manufacture, is used as a material in the process of manufacture of another product, then the list rule applicable to the product in which it is incorporated does not apply to it.

For example, unembroidered fabric may obtain origin by being woven from yarn. If this is then used in making embroidered bed linen, then the percentage value limit imposed on the use of unembroidered fabric does not apply in this case.

Note 4

- 4.1. The rules in the list represent the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer origin. Thus if a rule says that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.
- 4.2. When a rule in a list specifies that a product may be manufactured from more than one material, this means that any one or more of the materials may be used. It does not require that all be used.
For example, the rule for yarns says that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; one can use one or the other or both.
- 4.3. When a rule in a list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule.

Note 5

- 5.1. The term 'fibres' used in the list in Annex II covers 'natural fibres' and 'man-made staple fibres' of CN codes 5501 to 5507, and fibres of a kind used for the manufacture of paper.
- 5.2. The term 'natural fibres' is used in the list in Annex II to refer to fibres other than artificial or synthetic fibres and is restricted to the stages before spinning takes place, including waste and, unless otherwise specified, the term 'natural fibres' includes fibres that have been carded, combed or otherwise processed but not spun.
- 5.3. The term 'natural fibres' includes horsehair of CN codes 0503, silk of CN codes 5002 and 5003 as well as the wool fibres, fine or coarse animal hair of CN codes 5101 to 5105, the cotton fibres of CN codes 5201 to 5203 and the other vegetable fibres of CN codes 5301 to 5305.
- 5.4. The term 'man-made staple fibres' is used in the list in Annex II to refer to synthetic or artificial filament tow, staple fibres or waste, of CN codes 5501 to 5507.
- 5.5 The terms 'textile pulp' and 'chemical materials' are used in the list in Annex II to describe the non-textile materials (these are not classified in Chapters 50 to 63) which can be used to manufacture artificial or synthetic fibres or yarns, or fibres of a kind used for the manufacture of paper.
- 5.6. For yarn obtained from two or more textile materials, the provision appearing in the list in Annex II shall be applied cumulatively both as regards the headings under which the mixed yarn is classified and for the headings under which yarn of each of the other textiles of which the mixture is composed would be classified.
- 5.7. For products obtained from two or more textile materials, the provisions appearing in column 3 are applicable for each of the textile materials of which the mixture is composed.

Note 6

- 6.1. The term 'prebleached' used in the list in Annex II to characterize the level of manufacture required when certain non-originating materials are used, applies to certain yarns, woven fabrics and knitted or crocheted fabrics which have only been washed after the spinning or weaving operation.

Prebleached products are at an earlier stage of manufacture than bleached products, which have undergone several baths in bleaching agents (oxydizing agents such as hydrogen peroxyde and reducing agents).

- 6.2. The term 'complete making-up' used in the list in Annex II means that all the operations following cutting of the fabric or knitting or crocheting of the fabric directly to shape have to be performed.

However, making-up shall not necessarily be considered as incomplete where one or more finishing operations have not been carried out.

The following is a list of examples of finishing operations :

- fitting of buttons and/or other types of fastenings,
- making of button-holes,
- finishing off the ends of trouser legs and sleeves or the bottom hemming of skirts and dresses,
- fitting or trimmings and accessories such as pockets, labels, badges, etc.,
- ironing and other preparations of garments for sale 'ready-made'.

Remarks concerning finishing operations — special cases

It is possible that in particular manufacturing operations, the accomplishment of finishing operations, especially in the case of a combination of operations, is of such importance that these operations must be considered as going beyond simple finishing.

In these particular cases, the non-accomplishing of finishing operations will deprive the making-up of its complete nature.

- 6.3. The term 'impregnation, coating, covering or laminating' does not cover those operations designed to bind fabrics together.

ANNEX II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING TEXTILES AND TEXTILE ARTICLES FALLING WITHIN SECTION XI IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

CN code	Description of product	Working or processing carried out on non-originating materials that confers the status of originating products
(1)	(2)	(3)
ex 5101	Wool, not carded or combed : — degreased, not carbonized — carbonized	Manufacture from greasy, including piece-wasted wool, the value of which does not exceed 50 % of the ex-works price of the product Manufacture from degreased wool, not carbonized, the value of which does not exceed 50 % of the ex-works price of the product
ex 5103	Waste of wool or of fine or coarse animal hair, carbonized	Manufacture from non-carbonized waste, the value of which does not exceed 50 % of the ex-works price of the product
ex 5201	Cotton, not carded or combed, bleached	Manufacture from raw cotton, the value of which does not exceed 50 % of the ex-works price of the product
5501 to 5507	Man-made staple fibres : — not carded or combed or otherwise processed for spinning — carded or combed or other	Manufacture from chemical materials or textile pulp Manufacture from chemical materials or textile pulp or waste of CN code 5505
ex Chapters 50 to 55	Yarn, monofilament and thread, other than paper yarn : — printed or dyed — other	Manufacture from : — natural fibres not carded or combed or otherwise prepared for spinning, — grege silk or silk waste, — chemical materials or textile pulp, or — man-made staple fibres, filament tow or waste of fibres, not carded or combed or otherwise prepared for spinning or Printing or dyeing of yarn or monofilaments, unbleached or prebleached (1), accompanied by preparatory or finishing operations, twisting or texturizing not being considered as such, the value of non-originating material (including yarn), not exceeding 48 % of the ex-works price of the product Manufacture from : — natural fibres not carded or combed or otherwise prepared for spinning, — grege silk or silk waste, — chemical materials or textile pulp, or — man-made staple fibres, filament tow or waste of fibres, not carded or combed or otherwise prepared for spinning

CN code	Description of product	Working or processing carried out on non-originating materials that confers the status of originating products
(1)	(2)	(3)
ex Chapters 50 to 55	Woven fabrics, other than fabrics of paper yarn :	
	— printed or dyed	Manufactured from yarn or Printing or dyeing of unbleached or prebleached fabrics, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾
	— other	Manufacture from yarn
5601	Wadding of textile materials and articles thereof ; textile fibres not exceeding 5 mm in length (flock), textile dust and mill neps	Manufacture from fibres
5602	Felt, whether or not impregnated, coated, covered or laminated :	
	— printed or dyed	Manufacture from fibres or Printing or dyeing of unbleached or prebleached felt, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾
	— impregnated, coated, covered or laminated	Impregnation, coating, covering or laminating of non-wovens, unbleached ⁽¹⁾
	— other	Manufacture from fibres
5603	Non-wovens, whether or not impregnated, coated, covered or laminated :	
	— printed or dyed	Manufacture from fibres or Printing or dyeing of unbleached or prebleached non-wovens, accompanied by preparatory or finishing operations ⁽²⁾
	— impregnated, coated, covered or laminated	Impregnation, coating, covering or laminating of non-wovens, unbleached ⁽¹⁾
	— other	Manufacture from fibres
5604	Rubber thread and cord, textile covered, textile yarn and strip, and the like of CN codes 5404 or 5405; impregnated, coated, covered or sheathed with rubber or plastics :	
	— rubber thread and cord, textile covered	Manufacture from rubber thread or cord, not textile covered
	— other	Impregnation, coating, covering or sheathing of textile yarn and strip and the like, unbleached
5607	Twine cordage, rope and cables, whether or not plaited or braided and whether or not impregnated, coated, covered or sheathed with rubber or plastics	Manufacture from fibres, coir yarn, synthetic or artificial filament yarn or monofilament

CN code	Description of product	Working or processing carried out on non-originating materials that confers the status of originating products
(1)	(2)	(3)
5609	Articles of yarn, strip or the like of CN codes 5404 or 5405, twine, cordage, rope or cables, not elsewhere specified or included	Manufacture from fibres, coir yarn, synthetic or artificial filament yarn or monofilament
5704	Carpets and other textile floor coverings, of felt, not tufted or flocked, whether or not made up	Manufacture from fibres
Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries, trimmings; embroidery: — embroidery in the piece, in strips or in motifs (CN code 5810) — printed or dyed — impregnated, coated or covered — other	Manufacture in which the value of the materials used does not exceed 50 % of the ex-works price of the product Manufacture from yarn or Printing or dyeing of unbleached or prebleached fabrics, felt or non-wovens, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾ Manufacture from unbleached fabrics, felt or non-wovens Manufacture from yarn
5901	Textile fabrics coated with gum or amylic substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas, buckram and similar stiffened textile fabrics of a kind for hat foundations	Manufacture from unbleached fabrics
5902	Tyre-cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon	Manufacture from yarn
5903	Textile fabrics, impregnated, coated, covered or laminated with plastics, other than those of CN code 5902	Manufacture from unbleached fabrics or Printing or dyeing of unbleached or prebleached fabrics, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾
5904	Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Manufacture from unbleached fabrics, felt or non-wovens
5905	Textile wall coverings	Manufacture from unbleached fabrics or Printing or dyeing of unbleached or prebleached fabrics, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾

CN code	Description of product	Working or processing carried out on non-originating materials that confers the status of originating products
(1)	(2)	(3)
5906	Rubberized textile fabrics, other than those of CN code 5902	Manufacture from bleached knitted or crocheted fabrics, or from other unbleached fabrics
5907	Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio backcloths or the like	Manufacture from unbleached fabrics or Printing or dyeing of unbleached or prebleached fabrics, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾
5908	Textile wicks, woven, plaited or knitted, for lamps, stoves, lighters, candles and the like; incandescent gas mantles and tubular knitted gas mantle fabric therefor, whether or not impregnated	Manufacture from yarn
5909	Textile hose-piping and similar textile tubing with or without lining, amou or accessories of other materials	Manufacture from yarn or fibres
5910	Transmission or conveyor belts or belting, of textile material, whether or not reinforced with metal or other material	Manufacture from yarn or fibres
5911	Textile products and articles, for technical uses, specified in note 7 to Chapter 59 of the combined nomenclature:	
	— polishing discs or rings other than of felt	Manufacture from yarn, waste fabrics or rags of CN code 6310
	— other	Manufacture from yarn of fibres
Chapter 60	Knitted or crocheted fabrics:	
	— printed or dyed	Manufacture from yarn or Printing or dyeing of unbleached or prebleached fabrics, accompanied by preparatory or finishing operations ⁽¹⁾ ⁽²⁾
	— other	Manufacture from yarn
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted:	
	— obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Complete making-up ^(*)
	— other	Manufacture from yarn
ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted, except of CN codes 6213 and 6214 for which the rules are set out below:	
	— finished or complete	Complete making-up ^(*)
	— unfinished or uncomplete	Manufacture from yarn

CN code	Description of product	Working or processing carried out on non-originating materials that confers the status of originating products
(1)	(2)	(3)
6213 and 6214	Handkerchiefs, shawls, scarves, mufflers, mantillas, veils and the like : — embroidered	Manufacture from yarn or Manufacture from unembroidered fabric, provided the value of the unembroidered fabric used does not exceed 40 % of the ex-works price of the product
	— other	Manufacture from yarn
6301 to ex 6306	Blankets and travelling rugs; bedlinen, table linen, toilet linen and kitchen linen; curtains (including drapes) and interior blinds; curtain and bed valances; other furnishing articles (excluding those of CN code 9494); sacks and bags of a kind used for the packing of goods; tarpaulins, awnings, and camping goods : — of felt or non-wovens : — not impregnated, coated, covered or laminated — impregnated, coated, covered or laminated — other : — knitted or crocheted — unembroidered — embroidered — not knitted or crocheted : — unembroidered — embroidered	Manufacture from fibres Impregnation, coating, covering or laminating of felt or non-wovens, unbleached (*) Complete making-up (*) Complete making-up (*) or Manufacture from unembroidered knitted or crocheted fabric provided the value of the unembroidered knitted or crocheted fabric used does not exceed 40 % of the ex-works price of the product
6307	Other made up textile articles (including dress patterns), except for fans and hand screens, non-mechanical, frames and handles therefor and parts of such frames and handles : — floor cloths, dish cloths, dusters and the like — other	Manufacture from yarn Manufacture in which the value of the materials used does not exceed 40 % of the ex-works price of the product

CN code	Description of product	Working or processing carried out on non-originating materials that confers the status of originating products
(1)	(2)	(3)
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes or similar textile articles, put up in packings for retail sale	Incorporation in a set in which the total value of all the non-originating articles incorporated does not exceed 25 % of the ex-works price of the set

(¹) See introductory Note 6.1. in Annex I to this Regulation.

(²) However to be regarded as a working or processing conferring origin, thermoprinting has to be accompanied by printing of the transfer paper.

(³) See introductory note 6.3. in Annex 1 to this Regulation.

(⁴) See introductory note 6.2. in Annex to this Regulation.