



Ottawa, December 20, 2012

MEMORANDUM D10-14-59

In Brief

TARIFF CLASSIFICATION OF TEXTILE FABRIC COMBINED WITH PLATES, SHEETS OR STRIP OF CELLULAR PLASTIC, AND GARMENTS MADE UP OF SUCH FABRIC

This memorandum replaces CBSA Memorandum D10-14-59, issued February 9, 2011. It outlines the policy of the Canada Border Services Agency (CBSA) with respect to the tariff classification of textile fabrics that have been impregnated, coated, covered or laminated on one side with cellular plastic, and garments made up of such fabric.





Ottawa, December 20, 2012

MEMORANDUM D10-14-59

TARIFF CLASSIFICATION OF TEXTILE FABRIC COMBINED WITH PLATES, SHEETS OR STRIP OF CELLULAR PLASTIC, AND GARMENTS MADE UP OF SUCH FABRIC

This memorandum outlines the policy of the Canada Border Services Agency (CBSA) in regard to the tariff classification of textile fabrics that have been impregnated, coated, covered or laminated (hereafter referred to as “coated”) on one side, with cellular plastic, and garments made up of such fabric.

LEGISLATION

Customs Tariff

Headings:

- 39.20 Other plates, sheet, film, foil and strip, of plastics, non-cellular and not reinforced, laminated, supported or similarly combined with other materials.
- 39.21 Other plates, sheets, film, foil and strip, of plastics.
- 56.02 Felt, whether or not impregnated, coated, covered or laminated.
- 56.03 Nonwovens, whether or not impregnated, coated, covered, or laminated.
- 59.03 Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading 59.02.
- 61.13 Garments, made up of knitted or crocheted fabrics of heading 59.03, 59.06 or 59.07.
- 62.10 Garments, made up of fabrics of heading 56.02, 56.03, 59.03, 59.06 or 59.07.

Notes:

Chapter 39, Note 2

This Chapter does not cover:

...

- (p) Goods of Section XI (textiles and textile articles);

Section XI, Note 1

This Section does not cover:

...

- (h) Woven, knitted or crocheted fabrics, felt or nonwovens, impregnated, coated, covered or laminated with plastics, or articles thereof, of Chapter 39;

Chapter 56, Note 3

Headings 56.02 and 56.03 cover respectively felt and nonwovens, impregnated, coated, covered or laminated with plastics or rubber whatever the nature of these materials (compact or cellular).

Heading 56.03 also includes nonwovens in which plastics or rubber forms the bonding substance.

Headings 56.02 and 56.03 do not, however, cover:

- (a) Felt impregnated, coated, covered or laminated with plastics or rubber, containing 50% or less by weight of textile material or felt completely embedded in plastics or rubber (Chapter 39 or 40);
- (b) Nonwovens, either completely embedded in plastics or rubber, or entirely coated or covered on both sides with such materials, provided that such coating or covering can be seen with the naked eye with no account being taken of any resulting change of colour (Chapter 39 or 40); or
- (c) Plates, sheets or strip of cellular plastics or cellular rubber combined with felt or nonwovens, where the textile material is present merely for reinforcing purposes (Chapter 39 or 40).

Chapter 59, Note 2

Heading 59.03 applies to:

- (a) Textile fabrics, impregnated, coated, covered or laminated with plastics, whatever the weight per square metre and whatever the nature of the plastic material (compact or cellular), other than:

- (1) Fabrics in which the impregnation, coating or covering cannot be seen with the naked eye (usually Chapters 50 to 55, 58 or 60); for the purpose of this provision, no account should be taken of any resulting change of colour;
- (2) Products which cannot, without fracturing, be bent manually around a cylinder of a diameter of 7 mm, at a temperature between 15°C and 30°C (usually Chapter 39);
- (3) Products in which the textile fabric is either completely embedded in plastics or entirely coated or covered on both sides with such material, provided that such coating or covering can be seen with the naked eye with no account being taken of any resulting change of colour (Chapter 39);

(4) Fabrics partially coated or partially covered with plastics and bearing designs resulting from these treatments (usually Chapters 50 to 55, 58 or 60);

(5) Plates, sheets or strip of cellular plastics, combined with textile fabric, where the textile fabric is present merely for reinforcing purposes (Chapter 39); or

(6) Textile products of heading 58.11

(b) Fabrics made from yarn, strip or the like, impregnated, coated, covered or sheathed with plastics, of heading 56.04.

WCO Explanatory Notes on the Harmonized System

Chapter 39, General Notes, Plastics and Textile Combinations

Wall or ceiling coverings which comply with Note 9 to this Chapter are classified in heading 39.18. Otherwise, the classification of plastics and textile combinations is essentially governed by Note 1 (h) to Section XI, Note 3 to Chapter 56 and Note 2 to Chapter 59. The following products are also covered by this Chapter:

...

(d) Plates, sheets and strip of cellular plastics combined with textile fabrics (as defined in Note 1 to Chapter 59), felt or nonwovens, where the textile is present merely for reinforcing purposes.

In this respect, unfigured, unbleached, bleached or uniformly dyed textile fabrics, felt or nonwovens, when applied to one face only of these plates, sheets or strip, are regarded as serving merely for reinforcing purposes. Figured, printed or more elaborately worked textiles (e.g., by raising) and special products, such as pile fabrics, tulle and lace and textile products of heading 58.11, are regarded as having a function beyond that of mere reinforcement ...

GUIDELINES AND GENERAL INFORMATION

1. Note 1(h) to Section XI states that the Section excludes woven, knitted or crocheted fabrics, felt or nonwovens that are impregnated, coated, covered or laminated with plastic, or articles made from such material, that are classifiable in Chapter 39.
2. The General Explanatory Note to Chapter 39 states that combinations of plastic and textile are, for the most part, governed not only by Note 1(h) to Section XI, but also by Note 3 to Chapter 56 and Note 2 to Chapter 59.
3. Note 3(c) to Chapter 56 and Note 2(a)(5) to Chapter 59 exclude, from specified headings, any felts, nonwovens or

textile fabrics that are combined with “plates, sheets or strip” of cellular plastic, provided the textile material is “present merely for reinforcing purposes”.

4. To determine if a cellular plastic-coated textile fabric is classified in Section XI or in Chapter 39 two elements must be considered. The first is whether the cellular plastic constitutes a plate, sheet or strip, and the second is whether the textile material is present merely for reinforcing purposes.

Interpretation of the term “plates, sheets or strip of cellular plastics”

5. Headings 39.20 and 39.21 describe the plastic products found therein as plates, sheets, strips, film and foil.

6. Note 3(c) to Chapter 56 and Note 2(a)(5) to Chapter 59 refer only to plates, sheets and strip of cellular plastic; but not to film or foil of the same.

7. The CBSA considers plastic film and foil to have a maximum thickness of 0.010 in. (0.25 mm).

8. Therefore, a cellular plastic coating may only be considered to be a plate, sheet or strip if the importer is able to demonstrate that it is thicker than 0.25 mm.

Interpretation of the term “merely for reinforcing purposes”

9. This condition need only be considered if the cellular plastic layer in a cellular plastic-coated fabric is a plate, sheet or strip.

10. By the ordinary meaning of the word “merely”, the CBSA considers the phrase “merely for reinforcing purposes” to mean that the fabric has no other purpose than to support or reinforce the structural integrity of the plate, sheet or strip of cellular plastic.

11. Therefore, if the textile material has any purpose beyond merely reinforcing the structural integrity of the cellular plastic, a textile coated with a plate, sheet or strip of cellular plastic remains classified in Chapter 56 or Chapter 59, as appropriate.

12. Qualities indicating that the textile material has a purpose other than reinforcing the cellular plastic include strength, durability, resistance to wear, additional warmth, protection from the elements and, in a fashion or design context, drape and cut.

13. In order for the textile material in a cellular plastic-coated textile fabric to be considered to be merely for reinforcing purposes, it must be demonstrated that the textile material has no other significant function.

14. An example of a cellular plastic-coated textile fabric in which the textile material would be considered to be merely for reinforcing purposes would be a loosely woven, unbleached fabric coated with a plate, sheet or strip of cellular plastic that has been embossed with a pattern that imitates a leather grain.

Tariff classification of cellular plastic-coated textile fabrics

15. A textile coated with a film of cellular plastic is classified in Chapter 56 or Chapter 59, as appropriate.

16. A textile coated with a plate, sheet or strip of cellular plastic is classified in Chapter 56 or Chapter 59, as appropriate, unless the textile material can be demonstrated to be merely for reinforcing purposes. If the textile material is merely for reinforcing purposes the cellular plastic-coated textile fabric is classified in Chapter 39.

Tariff classification of garments made from a cellular plastic-coated textile fabric

17. The Canadian International Trade Tribunal decision in *Helly Hansen Leisure Canada Inc. vs. the President of the Canada Border Services Agency* (Appeal No. AP-2006-054, decision issued June 2, 2008) established precedent on the classification of garments made from a cellular plastic-coated textile fabric.

18. The textile material in the garment at issue was found to have characteristics beyond merely reinforcing the structural integrity of the cellular plastic coating, and the specific goods were classified in Chapter 62.

19. The tariff classification of a garment made up from a cellular plastic-coated textile fabric is dependent upon the classification of the fabric.

20. If the cellular plastic-coated textile fabric is classified in Chapter 56 or Chapter 59, apparel made up from that fabric is classified in Chapter 61 or Chapter 62, as appropriate.

21. In all cases, if a garment is made up from a cellular plastic-coated textile fabric and the textile material faces the exterior it will be considered to have a function beyond merely reinforcing the cellular plastic coating.

Additional Information

22. For certainty regarding the tariff classification of a product, importers may request an advance ruling on tariff classification. Details on how to make such a request are found in CBSA Memorandum D11-11-3, *Advance Rulings for Tariff Classification*, which is found on the CBSA Web site at: www.cbsa.gc.ca/publications.

23. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: **1-866-335-3237**.

REFERENCES

<p>ISSUING OFFICE –</p> <p>Trade Programs Directorate</p>	<p>HEADQUARTERS FILE –</p> <p>HS39.20, HS39.21, HS56.02, HS56.03, HS59.03, HS6113.00, HS6210.10</p>
<p>LEGISLATIVE REFERENCES –</p> <p><i>Customs Tariff</i>, Chapters 39, 56, 59, 61, 62</p>	<p>OTHER REFERENCES –</p> <p>WCO Explanatory Notes on the Harmonized System; <i>Encyclopedia of Polymer Science and Technology: Plastics, Resins, Rubbers, Fibers</i>, Volume 9 (page 764), 1st Edition; ASTM D6988 - 08 <i>Standard Guide for Determination of Thickness of Plastic Film Test Specimens</i></p>
<p>SUPERSEDED MEMORANDA “D” –</p> <p>D10-14-59, dated February 9, 2011</p>	

Services provided by the Canada Border Services Agency are available in both official languages.



Printed in Canada