



Memorandum D10-14-66

Ottawa, August 27, 2015

Tariff Classification of Certain Printed Flags and Banners

In Brief

This memorandum outlines the administrative policy of the Canada Border Services Agency regarding the tariff classification of printed textile flags and banners.

Legislation

Customs Tariff

Headings:

49.11 Other printed matter, including printed pictures and photographs.

63.07 Other made up articles, including dress patterns.

Subheading Note 1(h) to Section XI:

1. In this Section and, where applicable, throughout the Nomenclature, the following expressions have the meanings hereby assigned to them:

...

- (d) Unbleached woven fabric...
- (e) Bleached woven fabric...
- (f) Dyed woven fabric...
- (g) Woven fabrics of yarns of different colours...
- (h) Printed woven fabric

Legal Note 1(f) to Chapter 95:

1. This Chapter does not cover:

- (f) textile flags or bunting, or sails for boats, sailboards or land craft, of Chapter 63

Explanatory Notes to the Harmonized Commodity Description and Coding System:

General Explanatory Note to Chapter 49:

With the few exceptions referred to below, this Chapter covers all printed matter of which the essential nature and use is determined by the fact of its being printed with motifs, characters or pictorial representations.

...

Also, printed textile articles such as scarves or handkerchiefs, in which the printing is mainly for decorative or novelty purposes and does not affect the essential character of the goods, embroidery fabrics and prepared tapestry canvases bearing printed designs fall in Section XI.

...

For the purposes of this Chapter, the term "printed"... does not, however, include coloration or decorative or repetitive-design printing.

...

In general the goods of this Chapter are executed on paper but the goods may be on other materials provided they have the characteristics described in the first paragraph of this General Explanatory Note.

Explanatory Note to Heading 63.07:

This heading covers made up articles of any textile material which are not included more specifically in other headings of Section XI or elsewhere in the Nomenclature.

It includes, in particular:

...

(4) Flags, pennants and banners, including bunting for entertainments, galas or other purposes.

...

The heading ... further excludes:

...

(c) Printed matter (Chapter 49).

Explanatory Notes to Heading 95.05:

This heading also excludes:

...

(e) Textile flags or bunting of heading 63.07.

Guidelines and General Information

1. The Canadian International Trade Tribunal (CITT) Appeal AP-2009-056 (*Future Product Sales Inc. v. President of Canada Border Services Agency*) concerned the classification of single-piece, textile flags and banners printed with National Hockey League (NHL) team logos.
2. The CITT found that the NHL team logos had an importance that was well beyond that of decoration. They noted that the pictorial representations of NHL team logos are protected registered trademarks, whose use entails strict production and quality control parameters.
3. The Explanatory Notes to Chapter 49 stress that there will be only a “few exceptions” to the general principle that Chapter 49 is to cover all printed matter whose essential nature and use is determined by such representations.
4. In regard to the goods at issue, the Tribunal found it was the printed NHL team logo that conferred the essential nature and use of the goods, and that the NHL team logos were not merely for “decorative or novelty” purposes. Accordingly the flags and banners were classified under heading 49.11.
5. In accordance with this decision, examples of the type of printing that would result in a flag or banner being classified in heading 49.11 as “Other printed matter” include:
 - (a) Registered trademarks;
 - (b) Logos;
 - (c) Advertisements;
 - (d) Corporate and organizational flags and banners, such as those used by the Red Cross;
 - (e) National, military, head-of-state and regional flags would be included if they meet official proportion, colour and design specifications, etc;
 - (f) School flags and banners with official designs, such as crests; and
 - (g) Traffic flags and banners with text or symbols that are used to convey important information, such as the “men-at-work” symbol.
6. However, the CITT also stated that a textile flag or banner with printed decorative pictures or designs would be considered a made-up textile article of Chapter 63, provided the pictures or designs did not represent the essential nature of the good.
7. Examples of printed decorative pictures or designs on flags and banners that would be included in heading 63.07 as “Other made up articles” are:
 - (a) artisanal designs (e.g., flower, geometric or other decoration);
 - (b) seasonal decorations (e.g., Christmas); and

(c) repetitive designs (e.g., stripes, colours).

8. Flags or bunting of heading 63.07 with festive decorations are excluded from heading 95.05 (“Festive, carnival or other entertainment articles, including conjuring tricks and novelty jokes”) pursuant to Legal Note 1(f) to Chapter 95 and exclusionary note (e) in the Explanatory Note to heading 95.05.

9. Pursuant to Note 7 to Section XI, a flag that is sewn or otherwise made up from textile pieces or shapes that are not printed are classified in Heading 63.07. For example, a Canadian flag made up from two pieces of red fabric, one piece of white fabric and a piece of red fabric cut into the shape of the insignia maple leaf is classified in heading 63.07. The same would be true of a Canadian flag composed of two pieces of red fabric appropriately sewn together with a piece of white fabric onto which the red maple leaf insignia has been printed.

Additional Information

10. For certainty regarding the tariff classification of a product, importers may request an advance ruling for tariff classification. Details on how to make such a request are found in CBSA [Memorandum D11-11-3, *Advance Rulings for Tariff Classification*](#).

11. 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	
Issuing Office	Trade and Anti-dumping Programs Directorate
Headquarters File	
Legislative References	Customs Tariff
Other References	D11-11-3 Explanatory Notes to the Harmonized Commodity Description and Coding System; CITT Appeal AP-2009-056 (<i>Future Product Sales Inc. v. President of Canada Border Services Agency</i>)
Superseded Memorandum D	N/A