



DEPARTMENT OF HOMELAND SECURITY

U.S. Customs and Border Protection

Notice of Issuance of Final Determination Concerning Alcohol Prep Pads

AGENCY: U.S. Customs and Border Protection, Department of Homeland Security.

ACTION: Notice of final determination.

SUMMARY: This document provides notice that U.S. Customs and Border Protection (CBP) has issued a final determination concerning the country of origin of alcohol prep pads. Based upon the facts presented, CBP has concluded that the subject alcohol prep pads would be the product of Taiwan.

DATES: The final determination was issued on January 17, 2025. A copy of the final determination is attached. Any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of this final determination no later than [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Ani Mard, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade, at (202) 325-0727.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on January 17, 2025, CBP issued a final determination concerning the country of origin of alcohol prep pads for purposes of title III of the Trade Agreements Act of 1979. This final determination, HQ H340712, was issued at the request of Medline Industries, LP, under procedures set forth at 19 CFR part 177, subpart B, which implements Title III of the Trade Agreements Act of 1979, as amended (19 U.S.C. 2511–18). In the final determination, CBP has concluded that, based upon the facts presented, the country of origin of the alcohol prep pads is Taiwan, the country in which the fabric-making process occurs.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that a notice of final determination shall be published in the *Federal Register* within 60 days of the date the final

determination is issued. Section 177.30, CBP Regulations (19 CFR 177.30), provides that any party-at-interest, as defined in 19 CFR 177.22(d), may seek judicial review of a final determination within 30 days of publication of such determination in the *Federal Register*.

Alice A. Kipel,
Executive Director,
Regulations and Rulings,
Office of Trade.

HQ H340712

January 17, 2025

OT:RR:CTF:VS H340712 AM

CATEGORY: Origin

Lawrence R. Pilon
Rock Trade Law LLC
134 N LaSalle Street
Chicago, IL 60602

RE: U.S. Government Procurement; Title III, Trade Agreements Act of 1979 (19 U.S.C. 2511); Subpart B, Part 177, CBP Regulations; Country of Origin of Alcohol Prep Pads

Dear Mr. Pilon:

This is in response to your request, dated July 9, 2024, on behalf of Medline Industries, LP (“Medline”), for a final determination concerning the country of origin of alcohol prep pads pursuant to Title III of the Trade Agreements Act of 1979 (“TAA”), as amended (19 U.S.C. 2511 *et seq.*), and subpart B of Part 177, U.S. Customs and Border Protection (“CBP”) Regulations (19 CFR 177.21, *et seq.*). Medline is a party-at-interest within the meaning of 19 CFR 177.22(d)(1) and 177.23(a) and is therefore entitled to request this final determination.

FACTS:

The merchandise at issue consists of disposable, sterile, single-use nonwoven textile alcohol prep pads, classified under subheading 5603.12.00, Harmonized Tariff Schedule of the United States (“HTSUS”), imported individually packaged, ready for use, and saturated with a sterile solution consisting of 70% isopropyl alcohol and 30% water. The prep pads will be imported in two sizes: medium measuring 1-1/8" x 2-3/8", and large measuring 1-3/4" x 3". The merchandise is designed and intended for use in hospitals, surgery centers, and similar settings where healthcare services are provided.

The manufacturing process is described as follows:

Product Design and Development (United States)

In the United States, Medline performs the design research, product development, and materials selection.

Production of Nonwoven Fabric (Taiwan)

The manufacturing of the synthetic nonwoven filament fabric takes place in Taiwan. This process consists of melting primary forms of polypropylene plastic polymer. The polymer is then extruded into filaments that are spun and bonded into a sheeted web of nonwoven filament fabric textile material that is formed into rolls.

Cutting, Saturation, Packaging (China)

In China, the fabric is unrolled and cut into individual rectangular pieces of fabric weighing 45 g/m² which are folded to create a two-ply pad. The individual pads are then saturated with a sterile solution consisting of 70% by weight isopropyl alcohol and 30% purified water, prepared in China. Lastly, the individual prep pads are packaged into individual packets and then boxed into cases containing either 1,000 or 3,000 individual prep pads.

ISSUE:

What is the country of origin of the subject alcohol prep pads for purposes of U.S. Government procurement?

LAW & ANALYSIS:

CBP issues country of origin advisory rulings and final determinations as to whether an article is or would be a product of a designated country or instrumentality for the purpose of granting waivers of certain “Buy American” restrictions in U.S. law or practice for products offered for sale to the U.S. Government, pursuant to subpart B of Part 177, 19 CFR 177.21 *et seq.*, which implements Title III, Trade Agreements Act of 1979, as amended (19 U.S.C. 2511-2518).

CBP’s authority to issue advisory rulings and final determinations stems from 19 U.S.C. 2515(b)(1), which states:

For the purposes of this subchapter, the Secretary of the Treasury shall provide for the prompt issuance of advisory rulings and final determinations on whether, under section 2518(4)(B) of this title, **an article is or would be a product of a foreign country or instrumentality designated pursuant to section 2511(b) of this title.**

Emphasis added.

The Secretary of the Treasury’s authority mentioned above, along with other customs revenue functions, are delegated to the Secretary of Homeland Security via Treasury Department Order (TO) 100-20 “Delegation of Customs revenue functions to Homeland Security,” dated October 30, 2024, and are subject to further delegations to CBP (*see also* 19 CFR Part 177, subpart B).

The rule of origin set forth in 19 U.S.C. 2518(4)(B) states:

An article is a product of a country or instrumentality only if (i) it is wholly the growth, product, or manufacture of that country or instrumentality, or (ii) in the case of an article which consists in whole or in part of materials from another country or instrumentality, it has been substantially transformed into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was so transformed.

See also 19 CFR 177.22(a).

In rendering advisory rulings and final determinations for purposes of U.S. Government procurement, CBP applies the provisions of subpart B of Part 177 consistent with the Federal

Acquisition Regulation (“FAR”). *See* 19 CFR 177.21. In this regard, CBP recognizes that the FAR restricts the U.S. Government’s purchase of products to U.S.-made or designated country end products for acquisitions subject to the TAA. *See* 48 CFR 25.403(c)(1).

The FAR, 48 C.F.R. § 25.003, defines “designated country end product” as:

a WTO GPA [World Trade Organization Government Procurement Agreement] country end product, an FTA [Free Trade Agreement] country end product, a least developed country end product, or a Caribbean Basin country end product.

Section 25.003 defines “WTO GPA country end product” as an article that:

- (1) Is wholly the growth, product, or manufacture of a WTO GPA country; or
- (2) In the case of an article that consists in whole or in part of materials from another country, has been substantially transformed in a WTO GPA country into a new and different article of commerce with a name, character, or use distinct from that of the article or articles from which it was transformed. The term refers to a product offered for purchase under a supply contract, but for purposes of calculating the value of the end product includes services (except transportation services) incidental to the article, provided that the value of those incidental services does not exceed that of the article itself.

Once again, we note that the fabric for the alcohol prep pads is produced in Taiwan while the cutting, saturation, and packaging takes place in China. Taiwan is a TAA-designated country, and China is not.

The rules of origin for textile and apparel products for purposes of the customs laws and the administration of quantitative restrictions are governed by 19 U.S.C. 3592, unless otherwise provided for by statute. These provisions are implemented in the CBP Regulations at 19 CFR 102.21. Section 3592 has been described as Congress’s expression of substantial transformation as it relates to textile and apparel products. A textile or apparel product, in relevant part, includes any good classifiable in Chapters 50 through 63, HTSUS. *See* 19 CFR 102.21(a)(5). Therefore, as the alcohol prep pads are classified under subheading 5603.12.00, HTSUS, the country of origin will be determined by sequential application of paragraphs (1) through (5) of section 102.21 (19 CFR 102.21(c)(1) – (5)).

Paragraph (c)(1) of section 102.21 (19 CFR 102.21(c)(1)) states that “[t]he country of origin of a textile or apparel product is the single country, territory, or insular possession in which the good was wholly obtained or produced.” The subject alcohol prep pads are produced in two different countries: (1) Taiwan (where the fabric is produced), and (2) China (where the fabrics are cut, and solution is added). Therefore, 19 CFR 102.21(c)(1) is inapplicable.

Paragraph (c)(2) of section 102.21 (19 CFR 102.21(c)(2)) states that “the country of origin of the good is the single country, territory, or insular possession in which each foreign material incorporated in that good underwent an applicable change in tariff classification, and/or met any other requirement, specified for the good in paragraph (e) of this section.” Paragraph (e) of section 102.21 (19 CFR 102.21(e)) states, in relevant part, that “[t]he following rules will apply for purposes of determining the country of origin of a textile or apparel product under paragraph (c)(2) of this section:”

(1) Except for fabric of wool or of fine animal hair, a change from greige fabric of heading 5602 through 5603 to finished fabric of heading 5602 through 5603 by both dyeing and printing when accompanied by two or more of the following finishing operations: bleaching, shrinking, fulling, napping, decating, permanent stiffening, weighting, permanent embossing, or moireing; or

(2) If the country of origin cannot be determined under (1) above, a change to heading 5602 through 5603 from any heading outside that group, provided that the change is the result of a fabric-making process.

The term “[f]abric-making process” is defined in paragraph (b)(2) of Section 102.21 as:

...any manufacturing operation that begins with polymers, fibers, filaments (including strips), yarn, twine, cordage, rope, or fabric strips and results in a textile fabric.

The tariff shift rule in 19 CFR 102.21(e)(1) is inapplicable because there is no change from greige fabric. The tariff shift rule in 19 CFR 102.21(e)(2) requires a change to heading 5603 from any heading outside of headings 5602-5603, resulting from a fabric-making process. In Taiwan, polypropylene plastic polymer is melted and extruded into filaments. These filaments are spun and then bonded into a sheeted web of nonwoven filament textile fabric classified under subheading 5603.12.00, HTSUS. Hence, because the change to subheading 5603.12.00, HTSUS, is a result of a fabric-making process, the merchandise complies with the requisite tariff shift rule 19 CFR 102.21(e)(2). Accordingly, the country of origin of the alcohol prep pads is Taiwan, the country in which the fabric-making process occurs.

Based on the analysis above, we find that the country of origin of the subject alcohol prep pads is Taiwan and, therefore, the subject merchandise would be the product of a foreign country or instrumentality designated pursuant to 19 U.S.C. 2511(b)(1).

HOLDING:

Based on the facts and analysis set forth above, the subject alcohol prep pads are a product of Taiwan, for purposes of U.S. Government procurement.

Notice of this final determination will be given in the *Federal Register*, as required by 19 CFR 177.29. Any party-at-interest other than the party which requested this final determination may request, pursuant to 19 CFR 177.31, that CBP reexamine the matter anew and issue a new final determination. Pursuant to 19 CFR 177.30, any party-at-interest may, within 30 days of publication of the Federal Register Notice referenced above, seek judicial review of this final determination before the U.S. Court of International Trade.

Sincerely,

Alice A. Kipel, Executive Director
Regulations & Rulings
Office of Trade

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