



DEPARTMENT OF HOMELAND SECURITY
U.S. CUSTOMS AND BORDER PROTECTION
NOTICE OF ISSUANCE OF FINAL DETERMINATION CONCERNING
CERTAIN SURGICAL AND ISOLATION GOWNS

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 certain surgical and isolation gowns. Based upon the facts presented, CBP has concluded in the final determination that the Dominican Republic is the country of origin of the surgical and isolation gowns for purposes of U.S. Government procurement.

DATES: The final determination was issued on May 31, 2017. 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 within [insert 30 days from date of publication in the Federal Register].

FOR FURTHER INFORMATION CONTACT: Cynthia Reese, Valuation and Special Programs Branch, Regulations and Rulings, Office of Trade (202-325-0046).

SUPPLEMENTARY INFORMATION: Notice is hereby given that on May 31, 2017, pursuant to Subpart B of part 177, Customs and Border Protection (CBP) Regulations (19 CFR Part 177, Subpart B), CBP issued a final determination concerning the country of origin of certain surgical and isolation gowns which may be offered to the United States Government under an undesignated government procurement contract. This final determination, in HQ H284665, was issued at the request of Global Resources

International, Inc., 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, certain surgical and isolation gowns which are produced in the Dominican Republic from foreign nonwoven fabric by cutting the fabric into components and assembly of those components in the Dominican Republic are products of the Dominican Republic for purposes of U.S. Government procurement.

Section 177.29, CBP Regulations (19 CFR 177.29), provides that notice of final determinations 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*.

Dated: May 31, 2017

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

Attachment

HQ H284665

May 31, 2017

OT:RR:CTF:VS H284665 CMR

CATEGORY: Origin

Ms. Christi Roos, LCB
M-PACT Solutions
P.O. Box 30209
Memphis, TN 38118

RE: Government Procurement; Final Determination; Surgical and Isolation Gowns

Dear Ms. Roos:

This ruling is in response to your request of March 20, 2017, on behalf of your client, Global Resources International, Inc., for a country of origin determination for certain surgical and isolation gowns for purposes of government procurement under Title III of the Trade Agreements Act of 1979 (TAA), as amended (19 U.S.C. 2511 et seq.). Customs and Border Protection (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 purposes of granting waivers of certain "Buy American" restrictions in U.S. law or for products offered for sale to the U.S. Government. This final determination concerns the country of origin of certain surgical and isolation gowns. As an importer of this merchandise, Global Resources International, Inc., is a party-at-interest within the meaning of 19 CFR 177.23(a) and is entitled to request this final determination.

FACTS:

The surgical and isolation gowns at issue were the subject of New York Ruling Letter (NY) N283263, dated March 7, 2017, which determined that these gowns are classified in subheading 6210.10.50, Harmonized Tariff Schedule of the United States (HTSUS). Samples of each type of gown were submitted to CBP and are described in NY N283263 as follows:

The submitted sample, isolation gown, is constructed from 96% spunbonded polypropylene nonwoven fabric and 4% cotton knit fabric. The gown has a full back opening, long sleeves and a tie at the waist in the front of the gown that

extends around the waist to fasten at the back. The garment will be used in the medical industry.

The submitted sample, surgical gown, is constructed from 100% spunbonded polypropylene nonwoven fabric. The surgical gown has a hook and loop closure at the neck, long sleeves with knit cuffs and a full back opening. There is also a tie at the waist in the front of the gown that extends around the waist to fasten at the back. The garment will be used in the medical industry.

Based on information from your initial ruling request, dated December 2, 2016, your supplemental submission, dated January 30, 2017, NY N283263, and responses via email to our questions, the manufacturing process is as follows:

- Rolled nonwoven fabric from China, Vietnam, or India is shipped to the Dominican Republic.
- All other components including thread and cotton fabric for the cuffs will be manufactured in the Dominican Republic.

In the Dominican Republic:

- The nonwoven fabric is laid on a cutting table and cut to specification using a cutting template.
- Components are cut from the fabric - body, left arm, right arm, ties.
- Arms are ultra-sonically welded to the body fabric or sewn.
- In the case of the isolation gowns, the knit cuffs are sewn to the arms.
- The gowns are folded, packaged and shipped to the United States.

ISSUE:

What is the country of origin of the surgical and isolation gowns described herein for purposes of U.S. Government procurement?

LAW AND ANALYSIS:

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 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.

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) defining “country of origin” in identical terms.

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 Procurement Regulations. See 19 CFR 177.21. In this regard, CBP recognizes that the Federal Procurement Regulations restrict 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).

With regard to the articles at issue, your request involves determining whether the articles are products of the Dominican Republic. The Federal Acquisition Regulations define “designated country” as including a Free Trade Agreement (FTA) country, and includes the Dominican Republic in the list of FTA countries. Further, the regulations define “Free Trade Agreement country end product” to mean, in relevant part, an article that:

(1) Is wholly the growth, product, or manufacture of a Free Trade Agreement (FTA) 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 an FTA 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. . . .

See 48 CFR 25.003.

As the articles at issue are not wholly the growth, product, or manufacture of the Dominican Republic, the substantial transformation standard as set forth in 19 U.S.C. § 2518(4)(B) applies. As the articles at issue are textile products, the rules of origin for textile products for purposes of the customs laws and the administration of quantitative restrictions apply.

In NY N283263, it was determined that the surgical and isolation gowns are classified in subheading 6210.10.50, HTSUS, and are not wholly obtained or produced in the Dominican Republic, their origin cannot be determined by application of 19 CFR 102.21(c)(1), *i.e.*, wholly obtained or produced rule, and resort must be made to 19 CFR 102.21(c)(2), which provides that the origin of a good is the country “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 [102.21].” Section 102.21(e) provides, in pertinent part, for goods classifiable in heading 6210:

- (1) If the good consists of two or more component parts, a change to an assembled good of heading 6210 through 6212 from unassembled components, provided that the change is the result of the good being wholly assembled in a single country, territory, or insular possession.

* * *

The nonwoven fabric is cut in the Dominican Republic into component parts, *i.e.*, the body, left arm, right arm and ties. These components are wholly assembled in the Dominican Republic into finished gowns. In the case of the isolation gowns, another component, *i.e.*, the rib knit cuffs, are included in the assembly process. As the gowns are wholly assembled in the Dominican Republic, pursuant to 19 CFR 102.21(c)(2), the country of origin of the gowns is the Dominican Republic for U.S. Government procurement purposes.

HOLDING:

Based on the facts and analysis set forth above, for U.S. Government procurement purposes, the country of origin of the surgical and isolation gowns at issue is the Dominican Republic.

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 after publication of the *Federal Register* notice referenced above, seek judicial review of this final determination before the Court of International Trade.

Sincerely,

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