



Ottawa, February 9, 2010

MEMORANDUM D11-4-25

In Brief

CUSTOMS DUTY PAYABLE ON WOOLLEN FABRICS ORIGINATING IN COMMONWEALTH COUNTRIES

1. The title of this memorandum has been changed from Commonwealth Developing Countries Orders in Council to *Customs Duty Payable on Woollen Fabrics Originating in Commonwealth Countries*.
2. This memorandum has been updated to reflect the expiration of Order in Council P.C. 1997-2001, *Remission Order Respecting Imports of Goods Originating in Commonwealth Developing Countries* and Order in Council P.C. 1997-2002, *Order Respecting the Remission of a Portion of the Customs Duties and Excise Taxes on Imports of Certain Woollen Fabrics* and the continuation of Order in Council P.C. 1997-2003, *Regulations Respecting the Customs Duty Payable on Woollen Fabrics Originating in Commonwealth Countries*.



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Effective January 1, 1998, the British Preferential Tariff (BPT) treatment was revoked. The Uruguay Round Most Favoured Nation (MFN) tariff rate reductions have eliminated the margins of preference for most BPT tariff items with the exception of 11 tariff items respecting woollen fabrics. These tariff items continue to receive tariff preference equivalent to the former BPT rates by way of Order in Council (OIC) P.C. 1997-2003, *Regulations Respecting the Customs Duty Payable on Woollen Fabrics Originating in Commonwealth Countries*.

This OIC formerly maintained the restrictive shipping requirements that existed under the former BPT. Effective June 4, 1998, this Order was amended to permit direct shipment with transshipment in accordance with sections 17 and 18 of the *Customs Tariff*.

GUIDELINES AND GENERAL INFORMATION

1. OIC P.C. 1997-2003, *Regulations Respecting the Customs Duty Payable on Woollen Fabrics Originating in Commonwealth Countries*, the text of which is contained in the Appendix to this memorandum, provides tariff preference rates on certain woollen fabrics originating in Commonwealth developing countries. These rates are updated July 1st of each year. Please refer to the relevant edition of Part I of the *Canada Gazette* for the annual updated rates.
2. Eligibility for this tariff preference is restricted to imports from countries identified in the Schedule to the OIC. In addition, eligibility is subject to the proof of origin, rules of origin, and conditions pertaining to shipment and transshipment.
3. The tariff items listed in section 3 of the *Regulations Respecting the Customs Duty Payable on Woollen Fabrics Originating in Commonwealth Countries* are currently out of date and will be updated to reflect recent changes to the Harmonized System. The current tariff item numbers eligible for preferential tariff rates are – 5111.11.90, 5111.20.91, 5111.30.18, 5111.30.91, 5111.90.91, 5112.11.90, 5112.19.94, 5112.20.91, 5112.30.91, 5112.90.91 and 5803.00.29.

Proof of Origin

4. Proof of origin must be presented in the form of a commercial invoice or a Canada Customs Invoice, Form CII, prepared by the vendor and indicating the country of origin of the goods, or any other documentation indicating the country of origin of the goods, as outlined in Memorandum D11-4-2, *Proof of Origin*.

Rules of Origin

5. Remission is granted on condition that at least 50% of the cost of production is incurred by the industries of one or more countries listed in the Schedule to the OIC, or by the industry of Canada.
6. Cost of production includes:
 - (a) materials (exclusive of duties and taxes);
 - (b) labour; and
 - (c) factory overhead fees.
7. Goods are finished in the beneficiary country in the form in which they are imported into Canada.

Shipment

8. Goods accounted for on or after June 4, 1998, must be shipped directly on a through bill of lading from a beneficiary country, with or without transshipment, to a consignee in Canada, in accordance with Sections 17 and 18 of the *Customs Tariff*. The conditions pertaining to transshipment are contained in paragraph 11 of this memorandum.
9. Goods from Lesotho, Botswana, or Swaziland may be shipped from South Africa and be considered as shipped directly from the country in which they originate. Such goods must be shipped directly on a through bill of lading from South Africa, with or without transshipment, to a consignee in Canada.
10. Transshipment is the act of taking cargo out of one conveyance and loading it into another conveyance. This includes the act of taking cargo out of one conveyance and reloading it into the same conveyance. The landing of an airplane for refueling or docking of a ship to take on additional cargo does not constitute transshipment if the goods in question are not unloaded from the conveyance.
11. In circumstances where goods are transhipped, the following conditions must be observed:
 - (a) the goods must remain under customs transit control in the intermediate country;

(b) the goods must not undergo any operation in the intermediate country other than unloading, reloading, splitting up of loads, or operations required to keep the goods in good condition;

(c) the goods must not enter into trade or consumption in the intermediate country; and

(d) the goods must not remain in temporary storage in the intermediate country for a period exceeding six months.

12. The through bill of lading (or a copy thereof) must be presented to customs at the same time as the proof of origin. In the case of consolidated freight, where the through bill of lading is a lengthy document covering unrelated goods, the importer may present the cargo receipt from the carrier (or a copy thereof) in lieu of the through bill of lading. Where cargo receipts are presented that do not contain sufficient information to determine whether the shipping conditions were met, or for verification purposes, customs officers may request presentation of the through bill of lading.

Refunds

13. A refund may be filed under subsection 115(3) of the *Customs Tariff* within four years from the date of accounting.

Additional Information

14. 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**.

APPENDIX

REGULATIONS RESPECTING THE CUSTOMS DUTY PAYABLE ON WOOLLEN FABRICS ORIGINATING IN COMMONWEALTH COUNTRIES

Interpretation

1. The definitions in this section apply in these Regulations.

“British country” means the United Kingdom of Great Britain and Northern Ireland, any British colony, possession or protectorate, or any territory under British trusteeship. (*pays britannique*)

“Commonwealth country” means a country listed in the schedule. (*pays du Commonwealth*)

Application

2. These Regulations apply in respect of the rate of customs duty set under paragraph 1(b) of Supplementary Note 1 to Section XI of the List of Tariff Provisions to woollen fabrics imported from Commonwealth countries.

Terms and Conditions

3. (1) Goods imported under tariff item Nos. 5111.11.90, 5111.20.18, 5111.20.91, 5111.30.18, 5111.30.91, 5111.90.28, 5111.90.91, 5112.11.90, 5112.19.91, 5112.20.91, 5112.30.91, 5112.90.91 and 5803.90.19 from Commonwealth countries are eligible for the rate of customs duty set under paragraph 1(b) of Supplementary Note 1 to Section XI of the List of Tariff Provisions on condition that

- (a) not less than 50% of the cost of the production of the goods was incurred by the industries of one or more Commonwealth countries or the industry of Canada;
- (b) the goods were finished in a Commonwealth country in the form in which they were imported into Canada;
- (c) proof of origin of the goods is given in accordance with the *Customs Act*; and
- (d) subject to section 4, the goods are shipped directly to Canada, with or without transshipment, from a Commonwealth country.

(2) In calculating the cost of production for the purpose of paragraph (1)(a), the costs of the following shall not be included:

- (a) outside packing and expenses related to it, required for the transportation of the goods, not including packing in which the goods are ordinarily sold for consumption;
- (b) gross profit of the manufacturer or exporter and the profit or remuneration of any trader, broker or other person dealing in the article in its finished manufactured condition;
- (c) royalties;
- (d) customs or excise duty or tax paid or payable on imported materials;
- (e) carriage, insurance and other charges incurred to transfer the goods from the place of production or manufacture in the country of origin to the port of shipment; and
- (f) any other costs or charges incurred or likely to be incurred after the completion of the manufacture of the goods.

4. Notwithstanding paragraph 3(1)(d), goods that originate in Lesotho, Botswana or Swaziland are deemed to be shipped directly to Canada from the country in which they originate if they are shipped directly on a through bill of lading from South Africa to a consignee in Canada with or without transshipment.

5. [Repealed, SOR/98-325, s. 3]

SCHEDULE**(Section 1)****LIST OF COMMONWEALTH COUNTRIES**

Anguilla	Mauritius
Antigua and Barbuda	Montserrat
Ascension	Namibia
Australia	Nauru
Bahamas	New Zealand
Bangladesh	Nigeria
Barbados	Norfolk Island
Belize	Pakistan
Bermuda	Papua New Guinea
Botswana	Pitcairn
British Indian Ocean Territory	St. Kitts and Nevis
Brunei Darussalam	St. Helena and Dependencies
Cayman Islands	St. Lucia
Christmas Island	St. Vincent and the Grenadines
Cocos (Keeling) Islands	Samoa, Western
Cook Islands	Seychelles
Cyprus	Sierra Leone
Dominica	Singapore
Falkland Islands	Solomon Islands
Fiji	Sri Lanka
Gambia	Swaziland
Ghana	Tanzania, United Republic of
Gibraltar	Tokelau Islands
Grenada	Tonga
Guyana	Trinidad and Tobago
India	Tristan Da Cunha
Jamaica	Turks and Caicos Islands
Kenya	Tuvalu
Kiribati	Uganda
Lesotho	Vanuatu
Malawi	Virgin Islands, British
Malaysia	Zambia
Maldives	Zimbabwe
Malta	

REFERENCES

<p>ISSUING OFFICE –</p> <p>Origin Policy and Negotiations Unit Origin and Valuation Division Trade Programs Directorate Admissibility Branch</p>	<p>HEADQUARTERS FILE –</p> <p>4570-4, 4573-2, 4573-2-1</p>
<p>LEGISLATIVE REFERENCES –</p> <p>Order in Council P.C. 1997-2003 and P.C. 1998-962 <i>Customs Tariff</i>, sections 17, 18, and subsection 115(3) <i>Customs Act</i>, paragraph 74(1)(e)</p>	<p>OTHER REFERENCES –</p> <p>D11-4-2</p>
<p>SUPERSEDED MEMORANDA “D” –</p> <p>D11-4-25, May 10, 1999</p>	

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



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