

identify how the existing transportation system is performing, identify problems, and analyze implications of alternative national transportation policies. As initial activities, the Department expects to have some capability to undertake problem identification, define issues, and conduct tradeoff analysis within a year. The next steps will be to relate the transportation system to broader goals and other considerations such as economic activity, population trends, mobility issues and environmental measures, and to tie forecasting capability to transportation resource management and investment. This will begin to provide a framework for undertaking prospective policy and program tradeoff analysis. While intermediate products will begin to be available within the year, this work will require a significant investment and several years to complete.

3. State of the Transportation System Report: A report will be completed early in 1996 that would summarize outreach findings and apply initial research, performance measurement, and system analytical capability to describe the functioning of the transportation system now and policy implications for the future. It will include a vision for the Nation's future transportation system, a discussion of the performance and evaluation process, a description of the condition of the national transportation system and its relationship to the national economy, and an analysis of the national transportation network.

In developing these three products, the Department will continue its consultation with representatives of the public and private sectors to assure that the NTS is customer driven.

#### Public Outreach and Comment

In its initial presentation of the NTS concept in the June 23, 1994, **Federal Register**, the Department expressed its commitment to an incremental and evolving evaluation and goal-setting process for national transportation. It continues to be the Department's intent that the products resulting from this process will incorporate—and be improved by—input from the public and private sectors. Throughout the development of the NTS, the Department will continue to consult with state and local officials, at relevant meetings and conferences, and draw upon the products resulting from the metropolitan and statewide planning processes and management systems required by ISTEA.

To ensure that the NTS products are relevant to public and private sector transportation decision makers and users, the Department would find

advice and input on its revised course of action for the NTS useful.

Issued this 6th day of June, 1995, in Washington, DC.

**Michael P. Huerta,**

*Associate Deputy Secretary and Director,  
Office of Intermodalism.*

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## DEPARTMENT OF THE TREASURY

### Customs Service

#### Tariff Classification of Water Resistant Garments With Non-Water Resistant Hoods

**AGENCY:** U.S. Customs Service, Department of the Treasury.

**ACTION:** Withdrawal of proposed change of practice.

**SUMMARY:** Pursuant to the Customs Regulations, on December 5, 1994, Customs published notice in the **Federal Register** advising the public that Customs proposed a change of practice in regard to the classification of certain imported merchandise consisting of water resistant jackets with non-water resistant hoods, under the Harmonized Tariff Schedule of the United States (HTSUS). In response to that notice Customs received comments which were unanimous in opposition to the proposed change in practice. This document advises the public that Customs, after analyzing those comments, has decided not to change the practice in regard to these garments.

**EFFECTIVE DATE:** Withdrawal effective June 13, 1995.

#### FOR FURTHER INFORMATION CALL:

Josephine Baiamonte, Commercial Rulings Division, U.S. Customs Service, (202) 482-7050.

#### SUPPLEMENTARY INFORMATION:

##### Background

Classification of merchandise under the Harmonized Tariff Schedule of the United States is in accordance with the General Rules of Interpretation (GRI 1). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes.

Heading 6201, HTSUS, provides for, among other things, men's or boys' anoraks (including ski-jackets), windbreakers and similar articles (including padded, sleeveless jackets). In Additional U.S. Note 2 to chapter 62, HTSUS, wherein the term "water resistant" is defined, it states that the "water resistant" requirement refers to

the garment. Based on a review of that U.S. Note, Customs was of the opinion that Additional U.S. Note 2 had not been applied to its proper effect. Customs believed that the language of that Note did not suggest that only a portion of a garment be made water resistant in order for the entire garment to be classifiable as water resistant. Thus, the test as written, was interpreted to apply to the complete garment.

Accordingly, on December 5, 1994, Customs published a document in the **Federal Register** (59 FR 62452) proposing a change of practice pursuant to § 177.10(c)(1) of the Customs Regulations (19 CFR 177.10(c)(1)). Customs proposed that if the permanently attached hood of a water resistant garment is not similarly coated, the garment is precluded from classification as a water resistant garment.

#### Discussion of Comments

All of the comments received were in opposition to the change of practice. Consistently, the argument was made that the essential function of the water resistant garment is to provide protection from inclement weather, regardless of the presence of a hood. Furthermore, it was stated that Additional U.S. Note 2 is silent as to the "coverage issue", i.e., the portion of the garment which must be coated to render it properly classified as a water resistant garment, and that any restriction in that language was based solely on Customs interpretation.

#### Conclusion

Water resistant garments are specifically provided for in Chapter 62, HTSUS. Customs has consistently held that when the outer shell of a garment is coated, this has been sufficient to impart to the garment, per se, a water resistant classification. In addition to water resistance, many garments have characteristic features which distinguish them from other water resistant garments. For example, some may have rib knit cuffs and collars, and other decorative trim which are not water resistant. In other cases, as is the case with the garments at issue here, the garments feature hoods which may or may not be permanently attached to the garment, or may be "tuck away" hoods which fold into the collar. In most cases these hoods are not coated.

Regardless of these additional features, the garment itself remains water resistant. Thus, a water resistant garment with no hood is no less water resistant than a garment with a hood, particularly when one considers that

even on a garment with a permanently attached hood or "tuck away" hood, the wearer may decide not to exercise the hood option.

After a careful review of all the comments, it is our decision that the current practice in regard to these water resistant garments is correct. That is to say, water resistant garments with non-water resistant hoods (whether or not attached, or tuck-away) are properly classifiable within the appropriate provisions of Chapter 62, HTSUS, for water resistant garments.

**Samuel H. Banks,**

*Acting Commissioner of Customs.*

Approved: May 19, 1995.

**Timothy G. Skud,**

*Acting Deputy Assistant Secretary of the Treasury.*

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## OFFICE OF THE UNITED STATES REPRESENTATIVE

### Request for Public Comment Regarding Proposed Change to Threshold Under Chapter 10 of the North American Free Trade Agreement (NAFTA)

**AGENCY:** Office of the United States Trade Representative.

**ACTION:** The Trade Policy Staff Committee (TPSC) requests public comment regarding a proposed increase in threshold to \$100,000 for coverage of government procurement contracts by federal government entities under Chapter 10 of the NAFTA.

**SUMMARY:** NAFTA Chapter 10 sets forth obligations of the United States, Canada and Mexico on government procurement. The scope and coverage of

Chapter 10 is specified in Article 1001, which refers to entities and to goods, services and construction definitions, as set out in the annexes to the Chapter. Article 1001 also specifies value thresholds for determining coverage of individual contracts. Article 1001:1(c)(i) specifies that contracts for goods and services procured by federal government entities are covered if they exceed the threshold of \$50,000. The parties to the NAFTA have discussed increasing this threshold to \$100,000 to reduce the administrative burden associated with implementation of Chapter 10 and to allow for simplification of acquisition procedures for contracts between \$100,000.

**DATES:** Comments are requested by June 30, 1995.

**FOR FURTHER INFORMATION:** Contact Mark Linscott, Director, International Procurement Policy, Office of the U.S. Trade Representative, (202) 395-3063, or Bill Craft, Director, Multilateral Trade Affairs, Economic Bureau, State Department, (202) 647-3696.

**SUPPLEMENTARY INFORMATION:** The parties to the NAFTA expect to amend Article 1001:1(c)(i) to increase the threshold from \$50,000 to \$100,000 for coverage of goods and services (excluding construction services) procured by federal government entities. The threshold for construction services procured by federal entities will remain at \$6.5 million. Additionally, the thresholds specified in Article 1001:1(c)(ii) for government-owned enterprises would remain at \$250,000 for goods and services and \$8 million for construction services. NAFTA Chapter 10 does not yet apply to subcentral governments.

Application of the thresholds specified in Article 1001:1(c) are subject

to the considerations referred to in Article 1002, regarding valuation of contracts. Article 1002:5 applies to an individual requirement resulting in multiple contracts or contracts being awarded in separate parts and requires that the method for valuation be either the total actual value of similar recurring contracts over the previous 12 month period or the estimated value of recurring contracts in the fiscal year or 12-month period subsequent to the initial contract. Article 1002:6 applies to contracts that do not specify a total contract price, such as requirement contracts, and requires that the method for valuation be the total estimated value for the duration of fixed term contracts or the estimated monthly installment multiplied by 48 for contracts for an indefinite period.

Comments from interested parties regarding the proposed increase in threshold should be submitted by noon, Friday, June 30, 1995. Comments must be in English and provided in eight copies to Carolyn Frank, Executive Secretary, Trade Policy Staff Committee, Office of the United States Trade Representative, 600 Seventeenth Street, NW, Washington, DC 20506. Comments will be available for public inspection by appointment with the staff of the USTR Reading Room (202-395-6186), except for information granted "business confidential" status pursuant to 15 CFR 2003.6. Any business confidential material must be clearly marked as such at the top of the cover page or letter and each succeeding page of each copy and must be accompanied by a nonconfidential summary.

**Frederick L. Montgomery,**

*Chairman, Trade Policy Staff Committee.*

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