

*What Every Member of the  
Trade Community Should Know About:*

# **Textile Costumes under the HTSUS**



**AN INFORMED COMPLIANCE PUBLICATION**

**AUGUST 2006**

**U.S. CUSTOMS and BORDER PROTECTION**

**NOTICE:**

This publication is intended to provide guidance and information to the trade community. It reflects the position on or interpretation of the applicable laws or regulations by U.S. Customs and Border Protection (CBP) as of the date of publication, which is shown on the front cover. It does not in any way replace or supersede those laws or regulations. Only the latest official version of the laws or regulations is authoritative.

Publication History

First Published: June 2005  
Reviewed with No Changes June 2006  
Revised August 2006

**PRINTING NOTE:**

This publication was designed for electronic distribution via the CBP website (<http://www.cbp.gov>) and is being distributed in a variety of formats. It was originally created using Microsoft® Word. Pagination and margins in downloaded versions may vary depending upon which word processor or printer you use. If you wish to maintain the original settings, you may wish to download the Portable Document Format (PDF) version, which can then be printed using Adobe® Reader® or other PDF reader.

## PREFACE

On December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act (Pub. L. 103-182, 107 Stat. 2057), also known as the Customs Modernization or “Mod” Act, became effective. These provisions amended many sections of the Tariff Act of 1930 and related laws.

Two new concepts that emerge from the Mod Act are “***informed compliance***” and “***shared responsibility***,” which are premised on the idea that in order to maximize voluntary compliance with laws and regulations of U.S. Customs and Border Protection, the trade community needs to be clearly and completely informed of its legal obligations. Accordingly, the Mod Act imposes a greater obligation on CBP to provide the public with improved information concerning the trade community’s rights and responsibilities under customs regulations and related laws. In addition, both the trade and U.S. Customs and Border Protection share responsibility for carrying out these requirements. For example, under Section 484 of the Tariff Act, as amended (19 U.S.C. 1484), the importer of record is responsible for using reasonable care to enter, classify and determine the value of imported merchandise and to provide any other information necessary to enable U.S. Customs and Border Protection to properly assess duties, collect accurate statistics, and determine whether other applicable legal requirements, if any, have been met. CBP is then responsible for fixing the final classification and value of the merchandise. An importer of record’s failure to exercise reasonable care could delay release of the merchandise and, in some cases, could result in the imposition of penalties.

The Office of Regulations and Rulings (ORR) has been given a major role in meeting the informed compliance responsibilities of U.S. Customs and Border Protection. In order to provide information to the public, CBP has issued a series of informed compliance publications on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

This publication, prepared by the National Commodity Specialist Division, ORR, is a study of the classification of textile costumes. “Textile Costumes under the HTSUS” provides guidance regarding the classification of imported merchandise. We sincerely hope that this material, together with seminars and increased access to rulings of U.S. Customs and Border Protection, will help the trade community to improve voluntary compliance with customs laws and to understand the relevant administrative processes.

The material in this publication is provided for general information purposes only. Because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under Regulations of U.S. Customs and Border Protection, 19 C.F.R. Part 177, or to obtain advice from an expert who specializes in customs matters, for example, a licensed customs broker, attorney or consultant.

Comments and suggestions are welcomed and should be addressed to the Assistant Commissioner at the Office of Regulations and Rulings, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

Sandra L. Bell,  
Acting Assistant Commissioner  
Office of Regulations and Rulings

(This page intentionally left blank)

<b>INTRODUCTION.....</b>	<b>8</b>
<b>WHAT IS A COSTUME? .....</b>	<b>9</b>
<b>FLIMSY, NON-DURABLE COSTUMES OF CHAPTER 95 VS. WELL-MADE COSTUMES OF CHAPTERS 61 AND 62.....</b>	<b>10</b>
Styling .....	11
Construction .....	11
The Neck.....	11
The Waist.....	11
Seams .....	12
Finishing Touches .....	12
Elastics.....	12
Closure.....	13
Edges/Hems.....	13
Embellishments.....	13
<b>CLASSIFICATION OF FLIMSY COSTUMES .....</b>	<b>14</b>
<b>CLASSIFICATION OF WELL-MADE TEXTILE COSTUMES .....</b>	<b>14</b>
<b>COSTUME VS. OUTFIT .....</b>	<b>15</b>
<b>CLASSIFICATION OF TEXTILE COSTUMES WITH MULTIPLE COMPONENTS .....</b>	<b>16</b>
Composite Goods.....	17
Sets .....	17
Two Garment Rule .....	18
Mixed Sets .....	18
<b>MARKING OF ALL TEXTILE COSTUMES (CHAPTER 95, 61 OR 62)....</b>	<b>19</b>
<b>INFORMATION NEEDED FOR BINDING RULINGS.....</b>	<b>19</b>
<b>ENTRY REQUIREMENTS .....</b>	<b>20</b>
For Costumes Classified in Chapter 95.....	20
For Costumes Classified in Chapters 61 or 62.....	20
<b>APPENDIX: TABLE OF COSTUME FEATURES .....</b>	<b>21</b>
<b>ADDITIONAL INFORMATION.....</b>	<b>23</b>
The Internet.....	23
Customs Regulations .....	23
Customs Bulletin .....	23

Importing Into the United States ..... 24  
Informed Compliance Publications ..... 24  
Value Publications ..... 25  
“Your Comments are Important” ..... 26

(This page intentionally left blank)

## INTRODUCTION

This publication covers the classification of textile costumes, and begins with a short history of their classification. When the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) was implemented in 1989, it addressed classification of certain textile articles, which it called “fancy dress.” Specifically, Note 1 (e), Chapter 95, states that “This chapter does not cover...Sports clothing or fancy dress, of textiles, of chapter 61 or 62.”

In interpreting the phrase “fancy dress, of textiles, of chapter 61 or 62,” the Bureau of Customs and Border Protection (formerly the United States Customs Service) initially took the view that fancy dress included “all” costumes regardless of quality, durability, or the nature of the item. Thus, from 1989 until the fall of 1994, Customs and Border Protection (CBP) classified all textile costumes in Chapters 61 or 62 of the HTSUSA. However, CBP reexamined its view regarding the scope of the term “fancy dress” as it relates to costumes.

On November 15, 1994, CBP issued Headquarters Ruling Letter (HQ) 957318, which referred to the settlement agreement of October 18, 1994, reached by the United States and Traveler Trading. In HQ 957318, CBP stated that it had agreed to classify as festive articles in subheading 9505.90.6090, HTSUSA, costumes of a flimsy nature and construction, lacking in durability, and generally recognized as not normal articles of apparel. These costumes were not subject to the exclusion set forth in Note 1(e), Chapter 95, and consequently, as goods of Chapter 95, they were not subject to textile quota limitations or the requirement of a visa. Only textile costumes that exceeded the flimsy, non-durable standard or were ordinary articles of apparel were classified in Chapters 61 or 62, HTSUSA. (For brevity, we will refer to all flimsy, non-durable textile costumes that are not ordinary articles of apparel as “flimsy;” we will refer to textile costumes that exceed the flimsy, non-durable standard, or are ordinary articles of apparel as “well-made.”) We note that, generally, costumes that are not made of textile materials, for example plastic or rubber costumes are classified under subheading 9505.90.6000, HTSUSA.

In Headquarters Ruling Letter (HQ) 961447, dated July 22, 1998, CBP denied a domestic interested party petition which was filed pursuant to section 516, Tariff Act of 1930, as amended (19 U.S.C. 1516). CBP rejected the petitioner’s argument that four imported textile costumes should be classified under Chapter 61 or 62, HTSUSA, as items of wearing apparel and affirmed an earlier classification in HQ 959545, dated June 2, 1997, where four of the five textile costumes were classified as “festive articles” in heading 9505 because they were found to be flimsy, non-durable, and not normal articles of wearing apparel. CBP published notice of the denial of the domestic interested party petition and notice of the petitioner’s desire to contest HQ 961447. Thereafter, the petitioner filed a complaint in the Court of International Trade (CIT) challenging HQ 961447, contending that CBP was erroneously classifying certain textile costumes as “festive articles” under heading 9505, HTSUSA. In *Rubie’s Costume Company v. United States*, 196 F. Supp. 2d 1320, February 19, 2002, the CIT granted

the American manufacturer's motion for summary judgment and held the imported textile costumes classifiable as wearing apparel in Chapter 61, of the HTSUSA.

The CIT decision was appealed by the government. The United States Court of Appeals for the Federal Circuit (CAFC) heard the case and rendered its decision in favor of CBP's classification of the textile costumes under heading 9505, HTSUSA. In *Rubie's Costume Co. v. United States*, 337 F. 3d 1350, (Aug. 1, 2003), the CAFC overturned the lower court's decision and sustained CBP's position that certain textile costumes of a flimsy nature and construction, lacking in durability, and generally recognized as not being normal articles of wearing apparel, were classifiable as "festive articles" under Chapter 95, HTSUSA, and qualified for duty-free treatment. The decision stated that deference must be applied to CBP's interpretation of Note 1(e), Chapter 95, and the criteria developed by CBP in making these determinations was judged to be reasonable.

The appeals process has been exhausted and the CAFC's decision in *Rubie's Costume Co. v. United States*, 337 F. 3d 1350 (Aug. 1, 2003) became final on October 31, 2003. Therefore, all flimsy, non-durable textile costumes that are not recognized as ordinary articles of apparel are classified under 9505.90.6000, HTSUSA (flimsy); all textile costumes that exceed the flimsy, non-durable standards, or are recognized as ordinary articles of apparel are classified in Chapters 61 or 62, HTSUSA (well-made).

## WHAT IS A COSTUME?

A costume is usually composed of an article of wearing apparel, with or without other accessory items such as hats, false ears, noses, wigs, etc. However, a costume may also consist of a single item or collection of accessory items used to create an image. For example, gossamer wings; or a devil's horns, tail and pitchfork, create an image, without a garment, and are considered costumes of heading 9505, HTSUSA. A costume is worn on the person to create an image of:

- A specific character (e.g., Dracula)
- A specific creature (e.g., gorilla)
- A class of person (e.g., pirate)
- A class of things (e.g., flowers)
- A period of time (e.g., flapper age)

Although the *Rubie's* case addressed the classification of textile costumes worn for Halloween, CBP applies the decision to all costumes, including costumes available or used year round.

## FLIMSY, NON-DURABLE COSTUMES OF CHAPTER 95 VS. WELL-MADE COSTUMES OF CHAPTERS 61 AND 62

The CAFC in the *Rubie's* decision stated that “Skidmore” deference must be applied to CBP’s interpretation regarding the classification of textile costumes.♦ The criteria developed by CBP to carry out the Traveler Trading stipulation, which was set forth in HQ 961447, was deemed reasonable for classifying textile costumes under the HTSUSA. This section offers an explanation of each of the criteria developed by CBP and the application of the criteria to individual articles.

In making a decision that a textile costume is flimsy and non-durable and classified in subheading 9505.90.6000, HTSUSA, or well-made and classified in Chapters 61 or 62, CBP separately identifies features in each article. These features generally fall into four areas: **Styling, Construction, Finishing Touches, Embellishments.** CBP does not make a flimsy or well-made determination on the fabric from which a costume is constructed. Rather, the actual design, construction and sewing of the costume determine whether it is well-made or flimsy, and ultimately its classification.

The chart in the Appendix, entitled “Table of Costume Features”, includes the four primary feature areas, set forth as criteria in a series of rulings dating back to 1995, and details various characteristics considered by CBP in making a determination as to what is meant by the terms “flimsy, non-durable” or “well-made” in order to classify textile costumes as festive articles in subheading 9505.90.6000, HTSUSA, or as wearing apparel in Chapters 61 or 62, HTSUSA. See HQ 957973, August 14, 1995; HQ 958049, August 21, 1995; HQ 958061, dated October 3, 1995; HQ 957948, May 7, 1996; HQ 957952, May 7, 1996; HQ 959545, June 2, 1997; HQ 959064, June 19, 1997; HQ 960805, August 22, 1997; HQ 960107, October 10, 1997; HQ 961447, July 22, 1998; HQ 957705, July 30, 1998; HQ 962081, November 25, 1998; HQ 962184, November 25, 1998; HQ 962441, March 26, 1999.\*

Finally, it is important to consider the *garment as a whole*. This is accomplished by considering whether or not it is reasonable to conclude that the article is a normal article of wearing apparel. Normal articles of apparel are usually designed for multiple wear and cleaning. Thus, it is necessary to assess the type of fabric used and the appropriateness of finishing elements for that fabric. With respect to longevity of the article, it is important to keep in mind that raw edges are not appropriate for fabrics that may fray easily. However, certain fabrics, such as netting, tightly knit/woven fabrics, or treated fabrics, may be very durable even with a raw edge. On occasion, a raw edge is intended to enhance the styling features on a costume. If the costume is comparable to a normal article of wearing apparel, it is classified in Chapter 61 or 62, HTSUSA.

---

♦ *Skidmore v. Swift & Co.*, 323 U.S. 134, 89 L. Ed. 124, 65 S. Ct. 161, (1944), held that an agency’s interpretation may merit deference proportional to its “power to persuade”.

A discussion of the four primary feature areas follows.

## Styling

Styling features add tailoring details and design elements to the costume and are generally sewn into the costume. Styling features achieved without the use of sewing are generally not considered styling features indicative of a well-made textile costume. In most instances, if the feature is NOT permanently affixed to the garment, it will not be counted as a styling feature.

A *flimsy* textile costume has little or no styling; for example: a one panel yoke, collar, or belt that has no stiffener, facing, or lining.

A *well-made* textile costume has styling; for example: two layers of fabric, ruffles, pleats, tucks, darts, drapes, bias cut, raglan sleeves, puff sleeves, mutton sleeves, double layer collars or belts, and extensive gathering; a collar with multiple layers and/or a facing fabric.

The examples given above regarding styling are not exhaustive, but merely provide a few examples of the more common costume features that are encountered.

## Construction

### The Neck

Typically, a *flimsy* textile costume neck has two or more components sewn together with a single straight stitch leaving raw edges, or an overlock stitched edge that is visible when worn. For example: thin elastic (e.g., ¼ inch in width) sewn onto the neck with a single straight stitch, or a single layer collar sewn to the neck with an overlock stitch.

A *well-made* textile costume neck normally includes the following methods of construction: Any finished neck with a turned and sewn edge or capping along the edge or an overlock stitched neck that is not visible when the costume is worn (such as a hood attached to a cape where the overlock stitching is on the inside of the garment).

### The Waist

A *flimsy* textile costume waist is usually constructed with a single straight stitch that has wide or loose stitches. For example: The top and bottom of a dress, coverall or jumpsuit held together with a loosely formed single straight stitch or the waist of a skirt or pants that has been connected with a loose straight stitch. A flimsy waistline may be comprised of any thin elastic (e.g., ¼ inch in width) which has been sewn directly to the fabric with a single straight stitch.

A *well-made* textile costume waist includes, for example, tunnel waists (fabric folded over and sewn to create an open channel to allow the elastic to be pulled-through), elastic with overlock stitching, or elastic sewn on separately, thus reinforcing the waist.

## Seams

Interior/exterior seams are formed when two panels of fabric are joined, e.g., at the sides and shoulders.

A *flimsy* costume typically has loose stitching at the seams. This includes costumes with edges that have been folded over once and sewn with a very loose straight or overlock stitch. Flimsy construction is apparent when there are exposed, raw edges on fabrics that fray easily on necklines, waistlines, and cuffs, which receive significant wear.

A *well-made* costume typically has seams that are joined with secure overlock stitching or straight stitching with a tight and uniform gauge.

The examples given above regarding construction are not exhaustive, but merely examples of the more common costume features that are encountered.

## Finishing Touches

A *flimsy* textile costume generally has thin elastic (e.g., ¼ inch in width) sewn on with a single straight stitch or overlock stitch. The elastic can be at the arm, ankle, closure, top, bottom or other places on a garment. Other features often found on a *flimsy* textile costume include a string tie or hook and loop tab closure, and raw edges or overlock stitched edges which are visible when the garment is worn. If an opening gapes and fails to provide adequate coverage and modesty to the wearer, it is considered flimsy.

An example of a *well-made* textile costume with high quality finishing touches would include thick, durable elastics and button closures with finished buttonholes. Also, a zipper closure constructed with a fold of fabric that covers the zipper making it less visible on the exterior of the costume is another example.

## Elastics

A *flimsy* costume usually has thin elastic sewn directly to the fabric with loose/wide straight or overlock stitching at the arms, ankles, top, or bottom of the article.

A *well-made* costume usually has wider elastic, inside a turned edge at the arms, ankles, top, or bottom of the article.

## Closure

A closure is the means by which an opening on the garment is secured.

A *flimsy* closure may have a single hook and loop tab or a string tie to secure a very large opening. This type of closure may cause “gaping” which would require a garment to be worn underneath for modesty and/or protection from the elements.

A *well-made* closure may have a zipper or buttons with button holes that completely secure the opening. This type of closure provides the wearer with secure and substantial coverage.

## Edges/Hems

A fabric edge that has been folded over and secured is generally referred to as a “hem”. The edge of a cuff or lower edge of a blouse, pullover, shirt, dress, skirt, pants or other garments may be finished in various ways and each edge or hem must be assessed in terms of the quality of the finishing touches. In addition, all edges or hems on the arms, ankles, and closure are separately evaluated.

A *flimsy* costume has raw edges or poorly finished hems on cuffs, full or partial openings, and at the bottom of the garment.

A *well-made* costume has turned hems (fabric edge folded over and sewn to inside of garment) that are securely stitched.

The examples given above regarding finishing touches are not exhaustive, but merely examples of the more common costume features that are encountered.

## Embellishments

Embellishments are usually minor components of a costume. Generally, an embellishment is attached to the costume after it is essentially complete. It is not sewn into the seams of the garment or attached as part of the general construction of the costume. The determination as to whether a particular component is a styling feature or an embellishment can sometimes be difficult because it relies more on judgment and interpretation than construction or finishing touches. Screen-printing is not considered an embellishment or styling. It is not taken into account when making a flimsy versus well-made determination.

Costumes that are *flimsy* and non-durable normally have inferior methods of attaching embellishments, such as ornamentation that has been glued or otherwise insufficiently attached to the costume.

Costumes that are *well-made* have embroidery, trimmings, and appliqués that have been sewn to the fabric. In addition, there may be decorative overlock stitching visible at the neckline or wrists which provides ornamentation and increased durability at edges which receive significant wear.

## **CLASSIFICATION OF FLIMSY COSTUMES**

Flimsy textile costumes are classified in subheading 9505.90.6000, HTSUSA. Flimsy textile costumes packaged in a set ready for retail sale are classified under subheading 9505.90.6000, HTSUSA, as long as the costume imparts the essential character to the set, which is almost always the case. In some rare instances, an accessory can impart the essential character.

## **CLASSIFICATION OF WELL-MADE TEXTILE COSTUMES**

Textile costumes that are well-made are classified in Chapters 61 or 62, HTSUSA. Costumes are usually designed to fit both males and females and are unisex. They are classified following Note 9, Chapter 61 and Note 8, Chapter 62, which both state that “Garments of this chapter designed for left over right closure at the front shall be regarded as men’s or boys’ garments, and those designed for right over left closure at the front as women’s or girls’ garments. [However,] these provisions do not apply where the cut of the garment clearly indicates that it is designed for one or other of the sexes. Garments which cannot be identified as either men’s or boys’ garments or as women’s or girls’ garments are to be classified in the headings covering women’s or girls’ garments.”

The only situations, to date, where costumes have been classified as men's or boys' apparel have been because of:

1. Size - where the garment is specifically sized for men.
2. Design - where there is a specific design for men; for instance, knight pants with a codpiece.
3. Closure - There is a left over right closure in front.

Well-made textile costumes should be classified, *eo nomine*, in Chapter 61 or 62, HTSUS, and not just as "Other wearing apparel." For example, costumes that are knit polyester dresses are specifically provided for in subheading 6104.43, HTSUSA, knit polyester skirts in subheading 6104.53, HTSUSA, and knit polyester pants in subheading 6104.63, HTSUSA.

It should be noted that costume robes are generally classified under the provision for "other garments" in heading 6114 or 6211 as these robes are not bathrobes or similar articles of the kind classified under headings 6107, 6108, 6207 or 6208, HTSUSA. In addition, costume capes are generally classified as "other garments" under headings 6114 or 6211, HTSUSA, as these capes are not of the kind that protect against the elements and are provided for in headings 6101, 6102, 6201 or 6202, HTSUSA.

## **COSTUME VS. OUTFIT**

Costumes and outfits are two separate and distinct articles, and are classified differently in the HTSUSA. Outfits of subheading 9503.70, HTSUSA, are for role-play and are frequently referred to in the trade as dress-up sets.

Subheading 9503.70, HTSUSA, provides for "Other toys, put up in sets or outfits, and parts and accessories thereof." The Subheading Explanatory Note to 9503.70 states very specifically:

Subject to substantiated classification in heading 95.03 and for the purpose of this subheading:

\* \* \*

(ii) "Outfits" are two or more different articles put up in the same packing for retail sale without repacking, specific to a particular type of recreation, work, person or profession.

CBP has stated that "dress-up" sets classifiable in subheading 9503.70, HTSUSA, are limited to a combination of articles, most of which are toys, that are illustrative of the recreation or work of a person or profession. See HQ 958061, dated October 3, 1995. The necessary "tools of the trade" are all that is needed to create the activity, work, or profession the child is imitating. These "tools" are frequently toys such as weapons, wands, fake make-up, or high heels. However, they can be non-toy

articles such as imitation jewelry, make-up, and other grown-up items. In HQ 958061, CBP set forth examples of dress-up sets of Chapter 95, HTSUSA, as follows:

1. Cowboy: complete with gun, badge and bandanna;
2. Nurse: complete with stethoscope and thermometer;
3. Pretty-lady: complete with jewelry and feather bow;
4. Bride: complete with veil and bouquet.

Most dress-up sets consist principally of toy items packaged on occasion with an item of textile and/or a hat. However, textile costumes cannot be part of an outfit of subheading 9503.70, HTSUSA. The HTSUSA precludes some textile costume garments from classification within Chapter 95 by operation of Note 1 (e) (well-made costume garments). The remaining costume garments (flimsy textile, plastic, rubber, paper, etc.) are classified under subheading 9505.90.6000, HTSUSA, as festive, carnival and other entertainment articles.

Since "outfits" of subheading 9503.70, HTSUSA, cannot contain costumes that are either textile or non-textile garments, such "outfits" of subheading 9503.70, HTSUSA, are not affected by the *Rubie's* decision.

## **CLASSIFICATION OF TEXTILE COSTUMES WITH MULTIPLE COMPONENTS**

Well-made costumes are often imported as a "set" packaged for retail sale. When a "set" is imported with a single costume a determination must be made as to whether the "set" is considered a composite good, a set packaged for retail sale, or whether each item in the set must be separately classified. General Rule of Interpretation (GRI) 3(b) provides:

When by application of rule 2(b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows:

\* \* \*

- (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3(a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

## Composite Goods

Composite goods are classified in accordance with GRI 3(b), HTSUSA. Pursuant to the Harmonized Commodity Description and Coding System Explanatory Notes (ENs) for GRI 3(b), a costume is considered a composite good with separable components when:

1. Components are adapted one to the other;
2. Components are mutually complementary;
3. Together they form a whole that would not normally be offered for sale in separate parts.

A composite good is classified by the component that imparts the essential character, which for costumes is invariably the garment. For costumes, this occurs most often when a costume is imported with a hat. For example a pumpkin shaped garment is imported with a hat that resembles the top of the pumpkin, including leaves. The pumpkin hat is adapted to the pumpkin garment and they are mutually complementary, and form a whole, which would not normally be offered for sale in separate parts.

## Sets

Sets are classifiable in accordance with GRI 3(b), HTSUSA. Based on the EN for GRI 3(b), a costume is considered “goods put up in sets for retail sale” when:

1. It consists of at least two different articles, which are, *prima facie*, classifiable in different headings
2. Consists of products or articles put up together to meet a particular need or carry out a specific activity
3. Are put up in a manner suitable for sale directly to users.

For example, a pumpkin shaped garment with a green baseball-style cap is a set because the two items are classifiable in different headings, are put together to create a costume, and are put up for sale directly to users. (It is not a composite good. The cap is a common item that is not adapted to the costume). Another example of a set is a cheerleader dress imported with a megaphone and pompoms.

A set is classified by the component that imparts the essential character, which for costumes is invariably the garment. An exception to this view has occurred, for instance, in a case where an extremely elaborate accessory was considered to impart the essential character

Some “sets” fail to meet the criteria for “a set put up for retail sale.” Failed “sets” most commonly occur when a costume and components are packaged inside a carrying case or backpack that is classified separately (for additional information, see the Informed Compliance Publication on the “Classification of Sets”, available on the CBP website). Each item in a failed “set” must be separately classified.

For additional guidance as to the classification of articles with multiple components, please visit the CBP Internet web site at “<http://www.cbp.gov>” to review the Informed Compliance publication on the “Classification of Sets” dated March 2004.

## Two Garment Rule

Retail sets that contain two textile costume garments classifiable under two different HTSUSA numbers in Chapters 61 or 62 cannot be classified as a “set”. Note 13, Section XI, states:

Unless the context otherwise requires, textile garments of different headings are to be classified in their own headings even if put up in sets for retail sale. For the purposes of this note, the expression “textile garments” means garments of headings 6101 to 6114 and headings 6201 to 6211.

Therefore, two or more garments (as defined above) in a retail package cannot be classified as a set for customs purposes. Every item in the retail package must be separately classified.

## Mixed Sets

There are occasional times when a “set” will have some garments classified as flimsy in subheading 9505.90.6000, HTSUSA, and other garments classified as well-made in Chapter 61 or 62:

1. For a set in which one or more garments is flimsy and one garment is well-made, the garment conveying the essential character determines the classification:
  - If a flimsy garment imparts the essential character, the entire set is classified in subheading 9505.90.6000, HTSUSA.
  - If the well-made garment imparts the essential character, the set is classified in Chapter 61 or 62.
2. For a set in which one or more garments is flimsy and two or more garments are well-made, the garment conveying the essential character determines the classification:
  - If a flimsy garment imparts the essential character to the set, it is classified in subheading 9505.90.6000, HTSUSA.

- If a well-made garment imparts the essential character to the "set," every item is classified separately, as the two-garment rule applies

## **MARKING OF ALL TEXTILE COSTUMES (CHAPTER 95, 61 OR 62)**

Costumes made of a textile fiber are subject to the requirements of the Textile Fiber Products Identification Act, 15 U.S.C. 70, and Federal Trade Commission (FTC) regulations pursuant to the Act, 16 C.F.R. Part 303. Costumes, like other items of textile wearing apparel and many household items, must be labeled with the country of origin, fiber content, and RN number or business name.

Textile costumes are also subject to the Commission's Care Labeling Rule, which requires that proper care instructions be provided on a permanent label. The care instruction label must be placed in a location that is "seen or easily found."

The country of origin information must appear on the front side of a label in or near the center back of the neck. The fiber content and RN number or business name must be on a label, sticker, or hang-tag that is attached "in a secure manner" and placed in a "conspicuous" location. The fiber content and RN number or business name may be on the front or back of this label or tag, as long as it is clear and easily accessible. For additional information, please see the CBP's Informed Compliance Publication on "Marking Requirements for Wearing Apparel" dated January 2004, at "[www.cbp.gov](http://www.cbp.gov)".

If a costume is in a box or package that is intended to remain intact and unbroken until sale to the ultimate consumer, all of the required information must be repeated on the package unless the label information is clearly visible through the package.

The Commission's regulations and related information may be found on the FTC website at: "[www.ftc.gov/os/statutes/textilejump.htm](http://www.ftc.gov/os/statutes/textilejump.htm)".

The Commission also offers the following business guides:

- "Threading Your Way Through the Labeling Requirements Under the Textile and Wool Acts"; and
- "Clothes Captioning - Complying with the Care Label Rule".

## **INFORMATION NEEDED FOR BINDING RULINGS**

When requesting a binding ruling from CBP:

1. Provide item number and name (description).
2. List every item in a set and for non-textile items in the set, what they are made of - plastic, paper, wood, etc.
3. Provide construction of all textile items - knit, woven, etc.

4. Provide the fiber content of each textile item - 100% polyester, 100% cotton, 65% polyester-35% cotton, etc.
5. For each textile costume - list the size. Provide information on whether the costume is for an adult, child, toddler, infant, etc.
6. Provide country of origin.
7. Provide how imported - retail packed or in bulk.

## **ENTRY REQUIREMENTS**

### **For Costumes Classified in Chapter 95**

- No quota or visa requirements apply.

### **For Costumes Classified in Chapters 61 or 62**

- As of January 1, 2005, quota will not apply for textile costumes of Chapters 61 or 62, which are products of World Trade Organization member countries. However, visas may continue to be issued by foreign countries.

## APPENDIX: TABLE OF COSTUME FEATURES

FEATURES	CH. 95 (FLIMSY)	CH. 61/62 (WELL-MADE)
Styling	<ul style="list-style-type: none"> <li>• Simple pull-on design with no front/back opening, no zippers, buttons, inset panels, darts, tucks, or other tailoring elements that create a fitted shape</li> <li>• Absence of unique design features such as an expandable hoop or shaped/decorative panels sewn to the costume</li> </ul>	<ul style="list-style-type: none"> <li>• Tailoring elements such as darts, tucks, gathers, that create a fitted shape</li> <li>• Wire hoop at base of garment which is encased by a fabric sleeve and secured by a durable interior seam</li> <li>• Multiple shaped panels sewn into seams and/or body of garment</li> <li>• Sheer/decorative panels sewn into seams of garment</li> <li>• Fabric cut on the bias</li> </ul>
Construction	<ul style="list-style-type: none"> <li>• Loose stitching at neck, waist, seams</li> <li>• Single layer collar with raw edge</li> <li>• Thin elastic sewn directly to the fabric with a single straight stitch</li> </ul>	<ul style="list-style-type: none"> <li>• Capping at neck or other exposed edges</li> <li>• Overlock stitching of a tight and uniform gauge on all interior seams</li> <li>• Collars made with front and back layers of fabric and/or constructed with facing for durability</li> </ul>

<p>Finishing Touches</p>	<ul style="list-style-type: none"> <li>• Tie closures or hook and loop fasteners which fail to sufficiently close the opening</li> <li>• Exposed, raw edges on fabrics that fray easily or on necklines, waistlines, cuffs, which receive significant wear</li> <li>• Split, raw edged opening, with only a tie closure or single hook and loop fastener.</li> </ul>	<ul style="list-style-type: none"> <li>• Button closure with finished button holes</li> <li>• Zipper closure constructed with a fold of fabric that covers the zipper making it less visible on the garment's exterior</li> <li>• Overlock stitching on exterior edges/hem which increase the costume's durability on fabric that frays easily</li> <li>• Turned hems on edges which have been secured by single seam or overlock stitching</li> </ul>
<p><b>Embellishments</b></p>	<ul style="list-style-type: none"> <li>• Loose overlock stitching used on raw edge at neck, waist, or other exposed edges</li> <li>• Ornamentation which has been glued or otherwise insufficiently attached to the costume</li> </ul>	<ul style="list-style-type: none"> <li>• Embroidery, trimmings, appliqués, that have been sewn to garment</li> </ul>

## **ADDITIONAL INFORMATION**

### **The Internet**

The home page of U.S. Customs and Border Protection on the Internet's World Wide Web, provides the trade community with current, relevant information regarding CBP operations and items of special interest. The site posts information -- which includes proposed regulations, news releases, publications and notices, etc. -- that can be searched, read on-line, printed or downloaded to your personal computer. The web site was established as a trade-friendly mechanism to assist the importing and exporting community. The web site also links to the home pages of many other agencies whose importing or exporting regulations that U.S. Customs and Border Protection helps to enforce. The web site also contains a wealth of information of interest to a broader public than the trade community. For instance, on June 20, 2001, CBP launched the "Know Before You Go" publication and traveler awareness campaign designed to help educate international travelers.

The web address of U.S. Customs and Border Protection is <http://www.cbp.gov>

### **Customs Regulations**

The current edition of *Customs Regulations of the United States* is a loose-leaf, subscription publication available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402; telephone (202) 512-1800. A bound, 2003 edition of Title 19, *Code of Federal Regulations*, which incorporates all changes to the Regulations as of April 1, 2003, is also available for sale from the same address. All proposed and final regulations are published in the *Federal Register*, which is published daily by the Office of the Federal Register, National Archives and Records Administration, and distributed by the Superintendent of Documents. Information about on-line access to the *Federal Register* may be obtained by calling (202) 512-1530 between 7 a.m. and 5 p.m. Eastern time. These notices are also published in the weekly *Customs Bulletin* described below.

### **Customs Bulletin**

The *Customs Bulletin and Decisions* ("Customs Bulletin") is a weekly publication that contains decisions, rulings, regulatory proposals, notices and other information of interest to the trade community. It also contains decisions issued by the U.S. Court of International Trade, as well as customs-related decisions of the U.S. Court of Appeals for the Federal Circuit. Each year, the Government Printing Office publishes bound volumes of the *Customs Bulletin*. Subscriptions may be purchased from the Superintendent of Documents at the address and phone number listed above.

## **Importing Into the United States**

This publication provides an overview of the importing process and contains general information about import requirements. The February 2002 edition of *Importing Into the United States* contains much new and revised material brought about pursuant to the Customs Modernization Act ("Mod Act"). The Mod Act has fundamentally altered the relationship between importers and U.S. Customs and Border Protection by shifting to the importer the legal responsibility for declaring the value, classification, and rate of duty applicable to entered merchandise.

The February 2002 edition contains a section entitled "Informed Compliance." A key component of informed compliance is the shared responsibility between U.S. Customs and Border Protection and the import community, wherein CBP communicates its requirements to the importer, and the importer, in turn, uses reasonable care to assure that CBP is provided accurate and timely data pertaining to his or her importation.

Single copies may be obtained from local offices of U.S. Customs and Border Protection, or from the Office of Public Affairs, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue NW, Washington, DC 20229. An on-line version is available at the CBP web site. *Importing Into the United States* is also available for sale, in single copies or bulk orders, from the Superintendent of Documents by calling (202) 512-1800, or by mail from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054.

## **Informed Compliance Publications**

U.S. Customs and Border Protection has prepared a number of Informed Compliance publications in the "What Every Member of the Trade Community Should Know About:..." series.

## Value Publications

*Customs Valuation under the Trade Agreements Act of 1979* is a 96-page book containing a detailed narrative description of the customs valuation system, the customs valuation title of the Trade Agreements Act (§402 of the Tariff Act of 1930, as amended by the Trade Agreements Act of 1979 (19 U.S.C. §1401a)), the Statement of Administrative Action which was sent to the U.S. Congress in conjunction with the TAA, regulations (19 C.F.R. §§152.000-152.108) implementing the valuation system (a few sections of the regulations have been amended subsequent to the publication of the book) and questions and answers concerning the valuation system. A copy may be obtained from U.S. Customs and Border Protection, Office of Regulations and Rulings, Value Branch, 1300 Pennsylvania Avenue, NW, (Mint Annex), Washington, D.C. 20229.

*Customs Valuation Encyclopedia* (with updates) is comprised of relevant statutory provisions, CBP Regulations implementing the statute, portions of the Customs Valuation Code, judicial precedent, and administrative rulings involving application of valuation law. A copy may be purchased for a nominal charge from the Superintendent of Documents, Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7054. This publication is also available on the Internet web site of U.S. Customs and Border Protection.

The information provided in this publication is for general information purposes only. Recognizing that many complicated factors may be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 C.F.R. Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in this pamphlet may not be considered reasonable care.

Additional information may also be obtained from U.S. Customs and Border Protection ports of entry. Please consult your telephone directory for an office near you. The listing will be found under U.S. Government, Department of Homeland Security.

## **“Your Comments are Important”**

The Small Business and Regulatory Enforcement Ombudsman and 10 regional Fairness Boards were established to receive comments from small businesses about Federal agency enforcement activities and rate each agency’s responsiveness to small business. If you wish to comment on the enforcement actions of U.S. Customs and Border Protection, call 1-888-REG-FAIR (1-888-734-3247).

**REPORT SMUGGLING 1-800-BE-ALERT OR 1-888-NO-DROGA**



**Visit our Internet web site: <http://www.cbp.gov>**