

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

Classification of Hats and Other Headgear under HTSUS Heading 6505



AN INFORMED COMPLIANCE PUBLICATION

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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.

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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, and videos, 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 hats and other headgear. “The Classification of Hats and Other Headgear under HTSUS heading 6505” 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, (Mint Annex), NW, Washington, D.C. 20229.

Michael T. Schmitz,
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Office of Regulations and Rulings

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INTRODUCTION

The purpose of this Informed Compliance publication is to advise importers, customs brokers and others of the various issues affecting the importation and tariff classification of hats and other headgear under heading 6505, HTSUS.

HEADING 6505

Heading 6505 of the HTSUS provides for “Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed.” This heading includes six-digit subheadings for “Hair-nets” (subheading 6505.10) and “Other” (subheading 6505.90).

The six-digit subheading 6505.90 is divided by component material and construction of the material into eight-digit subheadings. “Of cotton, flax or both” is covered by 6505.90.15 through 6505.90.25; “Of wool” is covered by 6505.90.30 through 6505.90.40; “Of man-made fibers” is covered by 6505.90.50 through 6505.90.80; and “Other” is covered by 6505.90.90.

The Explanatory Notes (EN)¹ to the Harmonized Commodity Description and Coding System are published by the World Customs Organization (Customs Cooperation Council). Although not legally binding, they represent the official interpretation of the tariff at the international level. The EN to 65.05, page 968, state that:

“This heading covers hats and headgear (whether or not lined or trimmed) made directly by knitting or crocheting (whether or not fullled or felted), or made up from lace, felt or other textile fabric in the piece, whether or not the fabric has been oiled, waxed, rubberized or otherwise impregnated or coated.”

This means that under this heading knit or crocheted hats and headgear can be made of any material; if not knitted or crocheted they must be of textile fabric.

The heading “includes hat-shapes made by sewing but **not** hat-shapes or headgear made by sewing or otherwise assembling plaits or strips (**heading 65.04**).” (See the EN to 65.02 and 65.04 for a good explanation regarding this exclusion). The EN to 65.05, state the heading includes:

- (1) Hats, whether or not trimmed with ribbons, hat pins, buckles, artificial flowers, foliage or fruit, feathers or other trimmings of any material.

¹ Explanatory Notes © 1996 Customs Co-operation Council (formal name of the World Customs Organization). The Explanatory Notes are available in printed and electronic versions from commercial sources or The World Customs Organization, Espace Nord, rue du Marché 30, B1210 Brussels, Belgium

Headgear of feathers or artificial flowers is **excluded (heading 65.06)**.

- (2) Berets (other than those made directly from felt plateaux - heading 65.03), bonnets, skull-caps and the like. These are usually made directly by knitting or crocheting, and are frequently fulled (e.g., basque berets).
- (3) Certain oriental headgear (e.g., fezzes). These are usually made directly by knitting or crocheting, and are frequently fulled.
- (4) Peaked caps of various kinds (uniform caps, etc.).
- (5) Professional and ecclesiastical headgear (mitres, birettas, mortar-boards, etc.).
- (6) Headgear made up from woven fabric, lace, net fabric, etc., such as chefs' hats, nuns' head-dresses, nurses' or waitresses' caps, etc., having clearly the character of headgear.
- (7) Cork or pith helmets, covered with textile fabric.
- (8) Sou'westers.
- (9) Hoods.

Detachable hoods for capes, cloaks, etc., presented with the garments to which they belong, are, however, **excluded** and are classified with the garments according to their constituent materials.

- (10) Top hats and opera hats.

This heading also includes hair-nets, snoods and the like. These are of any material, generally of tulle or other net, knitted or crocheted fabric or of human hair.

Non-woven fabric headgear is included in this heading. Classification of hats and headgear impacts on the proper textile category designation of the merchandise.

Importers and brokers commonly enter heading 6505 products under incorrect eight-digit subheadings based on the wrong material or wrong material construction. Cotton, flax, wool and man-made fibers have their own subheadings. In addition, the subheadings for these materials require division based upon their material construction, i.e. whether knitted, crocheted or other (not knitted, primarily woven or non-woven).

This publication will also discuss a common error which occurs when man-made fiber merchandise is entered in subheadings 6505.90.50 through 6505.90.80. It will review what constitutes "Wholly or in part of braid" in subheadings 6505.90.50 and 6505.90.70.

HAIR-NETS

Subheading 6505.10 includes hair-nets and snoods (a bag-like hairnet worn on the back of the head or over a bun). In general, these are of net, knit or crocheted construction and can be of any material, including human hair.

OTHER

Subheading 6505.90 consists of four significant subheading groupings.

HATS AND OTHER HEADGEAR OF COTTON, FLAX OR BOTH

(6505.90.15 through 6505.90.25)

Cotton hats, baseball caps, sun visors and babies' hats fall under these subheadings. To arrive at a classification under these subheadings you must determine whether the fabric is of cotton, of flax or of a combination of the two and whether the fabric from which the hats or headgear is made is knitted or not knitted (primarily woven).

Visors and other headgear which do not cover the crown of the head must be accurately described as there are separate statistical breakouts for this type of merchandise under subheadings 6505.90.1525 (knitted) and 6505.90.2545 (not knitted).

Statistical breakouts for babies' hats and headgear of cotton are provided for under subheadings 6505.90.1515 (knitted) and 6505.90.2030 (not knitted). The item must be sized 0 to 24 months. Toddler sizes do not fall under these numbers.

Woven cotton hats are often incorrectly classified under subheading 6505.90.2590. This error occurs because certified hand-loomed and folklore products of cotton, and headwear of cotton are grouped under the same statistical breakouts. Woven cotton hats are properly classified under subheading 6505.90.2060 which provides for "Not knitted: Certified hand-loomed and folklore products; **and headwear of cotton**" (emphasis added).

HATS AND OTHER HEADGEAR OF WOOL

(6505.90.30 through 6505.90.40)

Wool hats, baseball caps, sun visors and babies' hats fall under these subheadings. To arrive at a classification under these subheadings you must determine whether the fabric from which the hats or headgear are made is of wool and whether it is knitted or crocheted or made up from knitted or crocheted fabric, or of other construction (primarily woven).

Visors and other headgear which do not cover the crown of the head must be accurately described as there are separate statistical breakouts for this type of merchandise under subheadings 6505.90.3045 (knitted or crocheted or made up from knitted or crocheted fabric) and 6505.90.4045 (other).

Statistical breakouts for babies' hats and headgear of wool are provided for under subheadings 6505.90.3030 (knitted or crocheted or made up from knitted or

crocheted fabric) and 6505.90.4030 (other). The item must be sized 0 to 24 months. Toddler sizes do not fall under these numbers.

HATS AND OTHER HEADGEAR OF MAN-MADE FIBERS

(6505.90.50 through 6505.90.80)

Man-made fiber hats, baseball caps, sun visors, disposable headgear and babies' hats fall under these subheadings. To arrive at a classification under these subheadings you must determine whether the fabric is of man-made fibers and whether the fabric from which the hats or headgear are made is knitted or crocheted or made up from knitted or crocheted fabric, or of other construction (primarily woven or non-woven).

Visors and other headgear which do not cover the crown of the head must be accurately described as there are separate statistical breakouts for this type of merchandise under subheadings 6505.90.5045 (knitted or crocheted, wholly or in part of braid) 6505.90.6045 (knitted or crocheted, not in part of braid), 6505.90.7045 (other, wholly or in part of braid) and 6505.90.8050 (other, not in part of braid).

Statistical breakouts for babies' hats and headgear of man-made fibers are provided for under subheadings 6505.90.5030 (knitted or crocheted, wholly or in part of braid), 6505.90.6030 (knitted or crocheted, not in part of braid), 6506.90.7030 (other, wholly or in part of braid) and 6505.90.8045 (other, not in part of braid). The item must be sized 0 to 24 months. Toddler sizes do not fall under these numbers.

Note two very specific statistical breakouts. Man-made fiber hats or headgear, knitted or crocheted or made up from knitted or crocheted fabric, not in part of braid, not for babies, containing 23% or more by weight of wool or fine animal hair are classified under subheading 6505.90.6040. Man-made fiber hats or headgear, not in part of braid, that are non-woven disposable headgear without peaks or visors are classified under subheading 6505.90.8015.

WHOLLY OR IN PART OF BRAID

Within the subheadings for hats and headgear of man-made fibers are provisions for items "Wholly or in part of braid." Customs has found that much of the misclassification within heading 6505 is the result of misclassification under the "Wholly or in part of braid" subheadings 6505.90.50 and 6505.90.70. A full and detailed explanation of this term is necessary to facilitate proper classification under these provisions.

When merchandise is classifiable in Heading 6505 as a hat of man-made fibers, we must determine whether it is classifiable as "in part of braid." General Note 19 of the HTSUS provides in pertinent part the following:

19. Definitions. For the purposes of the tariff schedule, unless the context otherwise requires--

(e) **the terms "wholly of", "in part of", and "containing", when used between the description of an article and a material (e.g., "woven fabrics, wholly of cotton"), have the following meanings:**

- (i) "wholly of" means that the goods are, except for negligible or insignificant quantities of some other material or materials, composed completely of the named material;
- (ii) "in part of" or "containing" mean that the goods contain a significant quantity of the named material.

With regard to the application of the quantitative concepts specified above, it is intended that the *de minimis* rule apply.

De minimis means that an ingredient or component of an article may be ignored for classification purposes depending upon "whether or not the amount used has really changed or affected the nature of the article and, of course, its salability" as stated by the court in *Varsity Watch Company v. United States*, 34 CCPA 155, C.A.D. 359 (1947). The Customs Service has determined, in applying *de minimis* to the term "in part of braid," that if the quantity of braid in the sample submitted serves a useful purpose or affects the nature of the article or increases the salability of the article, it is considered to be in part of braid. (See ruling HQ 089076 dated July 31, 1991). Hats "in part of braid" can be divided into two categories: those where the braid serves a useful purpose, and those where the braid affects the nature of the article.

Braid Serves a Useful Purpose

Braid commonly serves a useful purpose when it affects the shape of the article or helps hold the item to the head. This type of braid can be found on many types of hats and headgear.

A knit hat with a hidden band of braided elastic in its interior was considered to be in part of braid. The opening of the head was approximately 3 inches in its unstretched condition. The purpose of the braided elastic was functional, it retained and reinforced the stretch and recovery of the knit fabric and therefore helped to maintain the shape and fit of the hat as a whole. (See ruling NY A82685 dated May 15, 1996).

A woven baseball style cap with an adjustable drawstring consisting of braided cord at the rear of the cap was in part of braid. The braid functioned to adjust the size of the cap to the wearer. (See ruling NY A88595 dated October 24, 1996).

Woven and knitted slumber caps, coiffure bonnets and shower caps with a braided elastic sewn around the inside edge which helped hold the articles on the head were considered in part of braid. (See ruling DD 841800 dated July 12, 1989).

A knitted man-made fiber mosquito head net with braided elastic at the base to keep it secure was considered in part of braid. (See rulings NY 835608 dated February 1, 1989, HQ 950365 dated January 16, 1992).

A knit hat with a thin elasticized braid inserted at the lower edge was determined to be not in part of braid because it was small, could not be seen and did not affect the nature of the article. (See ruling HQ 089076 dated July 31, 1991).

A knit beret containing braided elastic yarn which loosely laid at the cuff was not in part of braid. The rib knit cuff performed natural elasticity and required no elastics. (See ruling NY 848709 dated January 12, 1990).

An acrylic knit infants' hat with an elastic braid in the welt running through the inside of the hat approximately 1 inch from the bottom was not in part of braid. The amount of braid was small, it was concealed and the hat could be worn without it. The fabric was constructed to stretch and recover its original shape without the additional elastic braid. (See ruling HQ 950792 dated March 31, 1992).

An acrylic knit hat with an intertwining of elastic braid throughout the hat was not in part of braid. The braid did not impart any additional elasticity which was not already imparted by the acrylic knitted material. (See ruling HQ 952956 dated February 23, 1993).

Braid Affects the Nature of the Article

Braid commonly affects the nature of the article when it is used for decorative purposes.

A knit hat with a pom-pom attached to it by a small length of braid was not considered in part of braid because the piece of braid was small and did not affect the nature or salability of the article. (See ruling HQ 950792 dated March 31, 1992).

Braid is commonly found in baseball style caps in between the peak and the crown. The braid is usually approximately 9 inches long and can vary in width. Headquarters is currently reviewing the classification of this type cap with braid widths of 1/16, 1/8 and 3/16 inches and will address the classification in a forthcoming publication in the Federal Register.

OTHER HATS AND OTHER HEADGEAR (6505.90.90)

Hats and other headgear classified under heading 6505 (but not hair-nets or hats or other headgear made of cotton, flax, wool or man-made fibers) fall under this subheading. Fabric construction is not an issue in this subheading which includes:

- 6505.90.9030 - Silk hats and headgear, containing 70% or more by weight of silk or silk waste.
- 6505.90.9045 - Hats and headgear, of fine animal hair of alpaca, llama, vicuna, camel, yak, Angora, Tibetan, Kashmir or similar goats, rabbit (including Angora rabbit), hare, beaver, nutria or muskrat.
- 6505.90.9050 - Paper yarn hats and headgear. Under the HTSUS, paper yarns are considered to be textile material. They are usually knitted or crocheted.
- 6505.90.9076 - Hats of unspun vegetable fibers (raffia, seagrass, etc.) They are usually knitted or crocheted
- 6505.90.9085 - Silk hats and headgear not classified under 6505.90.9030.
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THE IMPORTER'S RESPONSIBILITIES

Since the enactment of the Customs Modernization Act in December, 1993, the legal burden of correctly classifying and valuing merchandise has shifted from the Customs Service to the importer, who must use reasonable care in carrying out these responsibilities.

When a hat or other headgear is imported, the importer should be aware of the composition of the component material or materials (i.e. the fiber content), the construction of the materials (knit, crocheted, woven, non-woven, etc.) and should obtain specific information from the foreign supplier regarding each component material.

The importer should also be aware of the distinctions made in 6505 among cotton, wool, man-made fibers and other materials as well as knit, crocheted and other constructions (primarily woven and non-woven construction). If the item is of man-made materials, the importer should be aware of whether it contains braid. If so, the importer should then ascertain if the braid serves a useful purpose or affects the nature of the

article or increases the salability of the article. If there are any doubts regarding this information, the importer should contact Customs.

The importer is also responsible for insuring that the entered value is determined in accordance with the Customs valuation law. (See "ADDITIONAL INFORMATION" below)

A binding ruling regarding the classification of a product may be requested prior to importation. See Part 177 of the Customs Regulations (19 CFR 177). A ruling request should include a sample of the item as well as information on its use and precise composition and construction. Each material which comprises the product should be identified. For sets, or composite goods, a breakdown indicating the quantity, weight, value and role of each component should be submitted with the ruling request. Requests for tariff classification rulings should be addressed to the Director, National Commodity Specialist Division, U.S. Customs Service, Attn: Classification Ruling Requests, 6 World Trade Center, New York, New York 10048.

INVOICING REQUIREMENTS

In accordance with section 141.86 of the Customs Regulations, "Contents of invoices and general requirements," (19 CFR 141.86), invoices should describe the precise nature and use of the merchandise. Each component material of the article should be identified as well as its construction (knit, woven, etc.). If possible the invoice should provide a complete breakdown by weight and a complete breakdown by value, indicating the percentage of the article (by weight and value) represented by each component.

The style name and brand name of the article is important and would be helpful if indicated on the invoice along with the marks, numbers and symbols which represent this merchandise. In addition, an invoice should provide information on the unit value, the total value of the shipment, quantity and terms of sale. When a product is a set, the invoice should not simply indicate the value of the entire set but should identify each article within the set and provide the unit value for each of these items. Please see "*What Every Member of the Trade Community Should Know About: Customs Value*" for information on determining value for Customs purposes. This publication is available on the Customs Electronic Bulletin Board and the Customs Internet Web site, both of which are described below.

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. Check the Internet web site <http://www.cbp.gov> for current publications.

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, (Mint Annex), NW, 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 1-800-NO-DROGA



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