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Spotlight on Import Regulation: Federal Trade Commission Labeling Requirements for Imported Textile and Woolen Products

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The U.S. Federal Trade Commission (FTC) is responsible for administering a number of federal statutes aimed at protecting consumers from false claims made in conjunction with goods offered for sale in the United States, and providing them with truthful information necessary to make informed purchasing decisions. The Textile Fiber Identification Act, the Wool Products Labeling Act and the Care Labeling Rule are among these laws and regulations. They require that textile and wool products offered for sale in the United States, including all imported garments and most household textiles (*e.g.*, curtains, bedding), be accurately labeled with their fiber content, and, in some cases, with appropriate care instructions.

The Textile Fiber Identification Act (TFIA)

The TFIA requires that each textile article offered for sale in the United States, inclusive of garments, bedding and other household items, include a label identifying the article's fiber content. The label must specify (a) each type of fiber included in the article, in order of predominance, (b) the percentage weight accounted for by each type of fiber, (c) the name of the manufacturer, and/or the distributor or seller of the good and (d) the country of manufacture. In certain cases, the fiber content of paddings, linings, trim, decoration and ornamentation must be also identified. The FTC's regulations provide a list of acceptable names for fibers, including names for proprietary artificial fibers.

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Labels must be affixed to the inside of the neck of any product with a neck, and otherwise affixed to the product in a conspicuous place. Certain hosiery products may be labeled on their packaging. The identification of the manufacturer/distributor may either take the form of the full business name of the company, or a "Registered Identification Number" issued by the FTC. Finally, fibers accounting for less than five percent by weight of a product's fiber content may be identified as "Other fibers," rather than specifically named. The sole exception is for wool fibers, as discussed below.

Importantly, the TFIA provides that that non-conforming imports are to be excluded from entry into the United States. Thus, an importer that attempts to bring finished textile and/or wool products into the country must ensure that the products are properly labeled, lest the goods be turned back at the border. Further, the TFIA specifies that the information required on the labels must also appear on the invoice presented with the entry documents.

Importers must also take care when entering unfinished textile goods. The FTC does not require that labels be affixed to textile goods that are not yet ready for sale to consumers. However, as with finished goods, the invoices associated with such imports must identify the fiber or fibers included, the country of origin, manufacturer and identify of the company issuing the invoice. Furthermore, items that are not yet ready for retail sale, but which are "substantially complete" at the time of importation, must have an affixed label complying with the TFIA, even if there are some finishing touches left to be completed—such as hemming or affixing buttons.

The Wool Products Labeling Act (WPLA)

As defined by the WPLA, wool is fiber made from the fleece or hair of sheep/lambs, Angora rabbits, Cashmere goats and in some instances, alpaca, llama, camel or vicuna. Any product containing wool must be labeled with the percentage fiber weight accounted for by (a) the wool and (b) the other fibers included in the product, (c) the name of the manufacturer, and/or the distributor or seller of the product and (d) the country of manufacture. Wool fiber reclaimed or reprocessed from felted or woven goods (whether or not used by a consumer) must be labeled as "recycled wool." The percentage weight of any non-fibrous filler or packing material included in the products must also appear on the label.

The WPLA's requirements regarding the affixing of labels, the identification of manufacturers and the exclusion of non-conforming imports mirror those of the TFIA. As with the TFIA, the information required on WPLA-compliant labels must also appear on the invoice presented with the entry documents. Similarly, importers must be careful when entering unfinished woolen goods—while no label is required for goods imported in an intermediate stage for further processing, the invoice accompanying the imported, unfinished good must identify the wool content, country of origin, manufacturer and the company issuing the invoice. Further, if the item is substantially complete, it must have an affixed label complying with the WPLA.

One subtle but important difference between the labeling requirements of the TFIA and WPLA is that the WPLA requires that wool fibers be specifically identified even where they account for less than five percent by weight of a product's fiber content. Accordingly, the wool content of a garment or household textile may not

be subsumed under a general "other fibers" identification.

The Care Labeling Rule (CLR)

The CLR applies to imported and domestic "wearing apparel" and piece goods. Prior to sale to the consumer in the United States, these items must be labeled with appropriate care instructions, including directions for washing the product, and any special information regarding drying, bleaching and ironing. Further, if performing an otherwise reasonable action—such as washing a good with apparel of other colors—could cause harm to the product or other items, then warnings against such behavior must be included.

Importers should be aware that while the CLR requires that goods be labeled with care instructions prior to their sale to the consumer, the labels need not be included at the time of importation. An importer may choose to have the label affixed after importation but prior to retail sale. Thus, lack of a care label at the time of importation will not result in denial of entry. However, failure to label prior to retail sale may result in penalties of up to $16,000 per garment.

Country of Origin for FTC and Customs Purposes

From time to time, importers may encounter situations in which the country of origin labeling requirements enforced by the FTC and by U.S. Customs and Border Protection (CBP) appear to conflict. For example, CBP may be reluctant to allow unfinished textile goods to enter without origin labeling, even if the FTC would only require that the origin be indicated on the invoice.

Further, determining the correct country of origin for textile products—both for CBP and for FTC purposes—is often complicated. Many garments are subject to processes in multiple countries. The country in which a garment's pieces are sewn together may be different from the country in which the fabric was cut, and this may again differ from the country in which the fabric was woven or the threads that make up the fabric were produced. Wherever such multi-country processes are involved, importers should carefully review CBP's rulings and any applicable free trade agreements so as to ensure correct origin designations. Assistance from counsel may be of particular use in such instances.