

May 8, 2006

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MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS

FROM: Executive Director, Trade Enforcement and Facilitation
Office of Field Operations

SUBJECT: TBT-06-002: Updated Textile Sample Guidelines

REFERENCE: VBT-88-103: Interim Update to Textile Sample Guidelines

BACKGROUND:

The Textile Operations Branch has received numerous inquiries regarding the policy governing sample shipments for commodities subject to quota/visa requirements. This administrative notice is intended to reiterate the requirements as originally presented in VBT-88-103 for goods entered under subheading 9811.00.60 of the Harmonized Tariff Schedule (HTS) or as commercial sample shipments.

HTS subheading 9811.00.60, provides for duty/quota free entry of articles used in the United States as samples to solicit orders for goods from foreign countries provided that they are 1) valued at not more than \$1 each, or 2) marked, torn, perforated or otherwise treated in a manner that renders them unsuitable for resale or for use other than as samples. For these shipments a formal entry is required if the shipment is valued at greater than \$2000.

For merchandise that is subject to China quota and merchandise from non-WTO countries where the United States has retained a bilateral visa arrangement, a more lenient form of marking may be used under the provisions for properly marked commercial samples for shipments valued at \$800 or less. Properly marked commercial sample provisions currently exist for China, Vietnam, Ukraine and Russia. These sample shipments do not qualify for entry under HTS subheading 9811.00.60. Accordingly, they are subject to duty and classifiable under the appropriate HTS Chapter 1 – 97 number, but are exempt from quota/visa requirements. If the value is \$250 or less, an informal entry can be filed. If the value is greater than \$250, but \$800 or less, formal entry is required.

In addition, the Committee for the Implementation of Textile Agreements (CITA) has also issued exemptions for fashion samples that have been incorporated into this administrative message.

ACTION:

I. General Guidelines for Sample Shipments Classified under Subheading 9811.00.60

In order to satisfy the requirements of subheading 9811.00.60, the sample must be “used in the United States only for soliciting orders for products of foreign countries.” Samples imported for such uses as quality control, testing or photography do not meet the order solicitation provision, and are thus not eligible for duty/quota-free treatment under this subheading.

In each instance the mutilation must occur before importation into the U.S. and the invoice must bear the statement “MUTILATED SAMPLES – 9811.00.60” before importation into the United States. Samples can not be mutilated or the mutilated sample statement can not be added to the invoice after the samples have arrived into the United States.

A. Requirements for Samples Entered as 9811.00.60 – Valued at not more than \$1 each or marked or mutilated.

Subheading 9811.00.60 provides for samples valued at not more than \$1 each. The value claimed should be a realistic value that represents the actual cost of the article plus the cost of mutilation.

Samples valued at more than \$1 each may be classified under subheading 9811.00.60 provided that they are marked, torn, perforated or otherwise treated so as to make them unsuitable for resale.

B. Requirements for Samples Entered as 9811.00.60 – Mutilated garment samples

In order for the mutilation requirement to be satisfied through marking, the word “SAMPLE” must be in a contrasting color to the garment and must appear on a prominent area of the garment which will be visible when worn. The word “SAMPLE” must be at least one inch in height and two inches in length and written in indelible ink or paint. Indelible markings are defined as those markings that cannot be erased or obliterated.

Mutilation may also be achieved by making a cut or tear in the garment. The cut or tear must be at least two inches in length and must be made to the outside of the garment. The cut or tear must be visible and cannot be on a seam or border.

If a garment is in a smaller size, i.e., infant's wear, the marking, cut or tear may be smaller than the minimum sizes defined above.

A garment sample may also be mutilated by punching or cutting a hole on the outside of the garment in a prominent area. The hole must be at least one inch in diameter, or approximately the size of a U.S. quarter, and must be placed in an area where it cannot be covered by an emblem or a patch.

C. Requirements for Samples Entered as 9811.00.60 – Mutilated fabric samples

Continuous Lengths or Rolls Not Exceeding Two Yards in Length

Continuous lengths or rolls of fabric may be marked or perforated with the word "SAMPLE" at intervals of one-half yard for the entire length. The sample piece may measure no more than two yards in total length. The size of the word "SAMPLE" must be at least one inch high and 5 inches long and must be placed at a perpendicular angle across the front or face of the fabric. If marking is used, it must be indelible and in contrasting color to the fabric.

Swatches

Fabric swatches of a maximum size of eight inches by eight inches may be entered under 9811.00.60 without mutilation. Any swatches larger than eight inches square require either a cut, a hole, or marking in the main body of the swatch. A cut must be at least one inch in length. If a hole is punched, it must be at least one inch in diameter. If the fabric swatch is marked, the word "SAMPLE" must be at least one inch in length and two inches in height, and must be in indelible ink or paint in a contrasting color to the swatch.

D. Requirements for Samples Entered as 9811.00.60 – Mutilated yarn samples

Due to the fragility of yarn, sample mutilation may be achieved through marking the cone with the word "SAMPLE" in indelible ink in letters at least one inch high and five inches long. The marking must appear in contrast to the background of the cone. The sample must comprise only a partial cone of yarn.

II. General Guidelines for Properly Marked Commercial Sample Shipments in Chapters 1 – 97

In order to meet the requirements for Properly Marked Commercial Sample Shipments, the shipment must be valued at \$800.00 or less and the goods must be marked as indicated below. This is a more lenient option that allows samples to be entered for photography, modeling, or other similar purposes.

A. Requirements for Properly Marked Commercial Sample Shipments of Garments

The inside of the garment must be indelibly stamped with the word "SAMPLE." The word "SAMPLE" must be in a contrasting color to the garment, near the country of origin label. The size of the word "SAMPLE" must be at least one inch in height.

If the garment is transparent or incapable of being marked (such as briefs, bikinis, hosiery, sheer, or very thin garments, etc.), a fabric label with the words "SAMPLE – NOT FOR RESALE" may be conspicuously and permanently affixed to the article. The label must be least 2 ½ inches by ½ inch, in close proximity to the country of origin label.

B. Requirements for Properly Marked Commercial Sample Shipments of Fabrics and Fabric Swatches

Fabrics (continuous lengths or rolls) or fabric swatches must be marked with the word "SAMPLE" at intervals of one-half yard (every 18 inches) for the entire length. The total length of the sample piece may measure no more than two yards in total length. The size of the word "SAMPLE" should be in one-inch block lettering and be placed at a diagonal angle across the back of the fabric and in a contrasting color to the fabric.

III. Disqualifications from Classification under (I.) Mutilated Samples or (II.) Properly Marked Commercial Samples

- A. If an importer has allowed commercial samples to be sold into the commerce of the United States as a regular commercial shipment, the importer and any company to which it is related to (as defined in 19CFR152.102(g)) can be prohibited from importing commercial sample shipments, as well as be subject to any appropriate penalty action. Furthermore, the importer must obtain the appropriate visa or visa waiver for all future entries of commercial or mutilated sample shipments.
- B. Two or more properly marked commercial sample shipments are allowed to arrive on the same conveyance to the same importer (or to a related importer as defined in 19CFR152.102(g)), even when manufactured or produced in the same country, provided the merchandise is not from the same supplier. The commercial sample markings for any of these combined shipments must be strictly adhered to and any evidence of safeguard or quota/visa circumvention can result in seizure and/or penalty action. The burden of proof in those particular instances is on the importer in those particular instances to show that these articles are commercial samples and are not for resale.
- C. A properly marked commercial sample shipment will not be combined with a regular commercial shipment for entry purposes.

IV. General Guidelines for Fashion Samples

Merchandise that is subject to China quota and merchandise from non-WTO countries where the United States has retained a bilateral visa arrangement may qualify as "fashion samples" provided that they meet all the following conditions: 1) accompany a buyer returning to the United States, 2) were purchased at the retail level, 3) include not more than a single article in a particular style or color, and 4)

include not more than 24 pieces total. Mail and cargo shipments are not eligible for treatment as fashion samples. Qualifying fashion samples are exempt from quota and visa restrictions. However, they are subject to duty and classifiable under Chapters 1 –97.

A. Requirements for Fashion Samples

Shipments of qualifying fashion samples must be identified by the Special Program Indicator (SPI) "M." Each article must be legally marked with the country of origin. There are no additional separate mutilation or marking requirements for fashion samples.

INFORMATION:

If you have any questions concerning this administrative notice, please contact Ms. Jacqueline Sprungle, at (202) 344-2277, Ms. Susan Thomas, at (202) 344-3719, or Mr. Robert Abels, at (202) 344-1959.

(signed Janet L. Labuda for)
Vera Adams