

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

Country of Origin of Knit to Shape Apparel Products



AN INFORMED COMPLIANCE PUBLICATION

MARCH 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.

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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 on new or revised requirements, regulations or procedures, and a variety of classification and valuation issues.

The Tariff Classification and Marking Branch, Commercial Trade and Facilitation Division, Office of Regulations and Rulings, has prepared this publication on ***Knit to Shape Apparel Products***, as part of a series of informed compliance publications regarding the classification and origin 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.

Country of Origin of Knit to Shape Apparel Products
March, 2006

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

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KNIT TO SHAPE APPAREL PRODUCTS

On December 8, 1994, the President signed into law the Uruguay Round Agreements Act. Section 334 of that Act (codified at 19 U.S.C. 3592) provided statutory rules of origin for textiles and apparel entered, or withdrawn from warehouse for consumption, on and after July 1, 1996. On September 5, 1995, Customs published Section 102.21 of the Customs Regulations in the Federal Register, implementing Section 334 (60 FR 46188). Thus, as of July 1, 1996, the country of origin of a textile or apparel product has been determined by sequential application of the general rules set forth in paragraphs (c)(1) through (5) of Section 102.21.

Customs has sought to maintain consistency in the application of section 102.21 since the rules of origin came into force. Although Customs has been successful in establishing sound criteria through determinations based on manufacturing processes with respect to most textile articles, there has been some confusion with respect to those articles referred to as "knit to shape." As a result of many of the inquiries received by Customs with respect to knit to shape articles, and recent developments addressing the interpretation of "knit to shape," this document is intended to clarify many of the ambiguities that have arisen. Although we realize that this publication focuses, for the most part, on knit to shape upper body garments, the principles set forth in this document are applicable to all "knit to shape" goods.

In that respect, Customs has worked closely with many interested parties in forming an open dialogue addressing many of the issues discussed in this document. What has resulted is a successful collaboration of the constant communication between Customs and the trade. This is in keeping with the spirit of the Customs Modernization Act (December 8, 1993, Title VI of the North American Free Trade Agreement Implementation Act, Pub. L. 103-182, 107 Stat. 2057), generally referred to as the "Mod Act," which is premised on the idea that in order to maximize and facilitate compliance with Customs laws and regulations, the trade community needs to be clearly and completely informed of its legal obligations. In essence, the Mod Act imposes a greater obligation on both Customs and the trade to share responsibility in carrying out import requirements.

PLEASE NOTE: This guidance is valid only for country of origin determinations under 19 C.F.R. 102.21. It is not applicable to determining the tariff classification of "knit-to-shape" garments identified by Statistical Note 6 to Chapter 61 of the Harmonized Tariff Schedule of the United States (HTSUS). For those purposes, CBP cautions importers not to rely on any definition other than that statistical note for guidance.

I. Definitions and Customs Interpretation

The relevant provision in the Customs Regulations which defines “knit to shape” is section 102.21(b), which states, in relevant part:

- (3) **Knit to shape.** The term **knit to shape** applies to any good of which 50 Percent or more of the exterior surface area is formed by major parts that have been knitted or crocheted directly to the shape used in the good, with no consideration being given to patch pockets, appliques, or the like. Minor cutting, trimming, or sewing of those major parts will not affect the determination of whether a good is “knit to shape.”
- (4) **Major parts.** The term **major parts** means integral components of a good but does not include collars, cuffs, waistbands, plackets, pockets, linings, paddings, trim, accessories, or similar parts.

In applying this provision to knit to shape articles, Customs has held that a major knit garment panel which is stated to be “knit to shape” but is not contoured at critical points like the neck and armholes, does not qualify as a knit to shape panel. As such, in those cases where, for example, a front or back panel is cut to shape at the neck or armholes, Customs has concluded that the panel is not knit to shape, as per the terms of section 102.21(b). However, as a caveat to this rule, Customs has indicated that where a knit garment consists of, for example, a front panel that is not determined to be knit to shape, but a back panel and sleeves that do qualify as knit to shape panels, the garment as a whole qualifies as a knit to shape good. The rationale being that as per the definition of “knit to shape” in section 102.21(b), the term knit to shape applies to any good of which 50 percent or more of the exterior surface is formed by major parts that have been knitted or crocheted directly to shape. Accordingly, in that situation, that is, where the back panel and sleeves are major parts which constitute “50 percent or more” of the exterior surface of the good, the article qualifies as a knit to shape good.

Headquarters Ruling Letter 960871, dated November 24, 1997, addressed the country of origin of two styles of women’s knit pullovers that featured among other things, one style which had front and back panels which as knit, were fully contoured at the armholes, side seams, shoulders and bottom, requiring cutting at the neck along the lines of demarcation, and a second style with front and back panels with lines of demarcation at the neck and armholes and sleeve panels knit with lines of demarcation at the armholes. The type of lines of demarcation in those garments included a subtle change in the knit fabric, *i.e.*, from a two by two rib to a two by one rib, and a series of small holes, both types forming semi-circular patterns as an indication of where the cutting would take place. In that ruling, Customs stated that “regardless of how the lines of demarcation are fashioned, the fact remains that without subsequent cutting

operations, the garments would either lack a neck opening or arm openings. As such, the cutting to shape of the panel to form the neck contour or the cutting to shape at the sleeves to form the armholes goes beyond the “minor cutting” envisioned by section 102.21(b).” Consequently, both garments in HQ 960871 were not considered “knit to shape.”

Subsequent to the issuance of that ruling, Customs interpretation of “knit to shape,” particularly with respect to its position on “lines of demarcation,” was called into question. In response to these concerns, Customs revisited its position on “knit to shape” and “lines of demarcation.” In HQ 960516, dated July 14, 1998, Customs issued the first ruling on a knit to shape good which in effect softened its position on those two critical issues. That ruling was followed by HQ 961828, dated July 27, 1998, and HQ 961981, dated September 3, 1998, both of which served to clarify Customs interpretation of “knit to shape” expressed in HQ 960516. Simply stated, the rationale in those three rulings addressed lines of demarcation in panels and basically confirmed that, in Customs view, if a garment panel featured:

- a. lines of demarcation which are continuous, with clear starting and ending points, thus, “clear and unambiguous” lines of demarcation; and
- b. the lines are created by a change in pattern which is knit directly into the fabric; and
- c. a self-start bottom

the garment panel is considered “knit to shape.” Of course, a panel with a self-start bottom and which is knit directly to shape on the knitting machine, that is, with the neckline and arm holes formed during the knitting process, also qualifies as knit to shape.

II. Additional Questions

Further guidance was requested in terms of clarification on a number of issues which had either not been addressed or required further detail. In order to facilitate this clarification process between Customs and the trade, several interested parties submitted a number of knit garment panels as examples of certain construction methods which exist in the apparel industry. By reviewing those samples and providing feedback, it is Customs belief that such guidance will enable importers to more fully comprehend the origin implications of the various construction methods used in knit goods.

<u>I. Self-Start Bottom</u>	
Is a "Self-Start bottom" a prerequisite for a knit to shape panel?	Yes. A Self-Start bottom is a prerequisite for a knit to shape front, back or sleeve panel.
How does Customs define a "Self-Start bottom"?	Customs defines "Self-Start bottom" as a finished bottom edge which is the beginning of a continuously knit garment. As such, the edge is finished when it comes off the machine. Similarly, sleeves must exhibit the same type of self-start end, usually at the bottom of the sleeve or cuff. The sleeve panels should be either shaped or feature acceptable lines of demarcation.

II. Beyond a Self-Start Bottom

If a panel has a self-start bottom, what else does it need to qualify as “knit to shape”?

If a front or back panel features a self-start bottom, *either* the armholes or the neck hole must be shaped or marked with clearly acceptable lines of demarcation. As further clarification we would add the following examples:

A. A square panel with a self-start bottom and no shaping at either the neck or armhole is not knit to shape.

B. A panel with a self-start bottom and shaping only at the neck is knit to shape.

C. A panel with a self-start bottom and clear lines of demarcation at the neck is knit to shape

D. A panel with a self-start bottom and shaping only at the arm holes is knit to shape

E. A panel with a self-start bottom and clear lines of demarcation at the arm holes is knit to shape.

F. A panel with a self-start bottom and shaping at the neck and clear lines of demarcation at the arm holes is knit to shape.

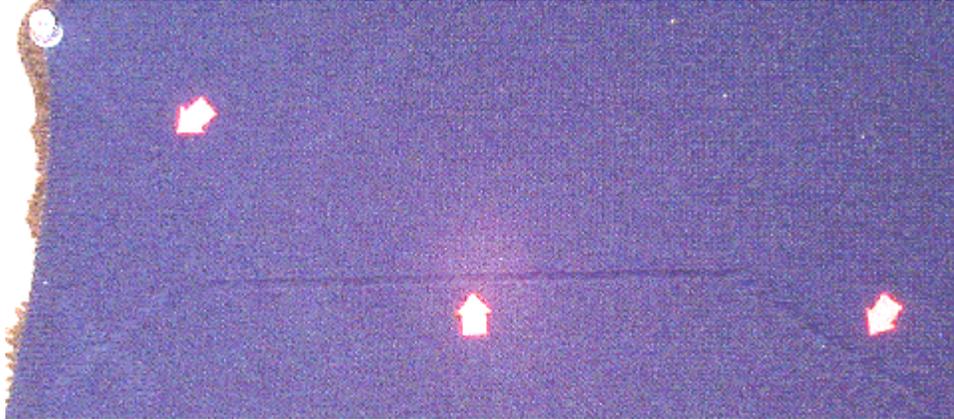
G. A panel with a self-start bottom and clear lines of demarcation at the neck and shaping at the armholes is knit to shape.

Can several panels knit directly in a blanket of fabric with lines of demarcation separating each of the panels from one another, still be considered knit to shape?

Yes. So long as the lines of demarcation separate both the individual panels by clear and continuous lines of demarcation and each panel within the blanket of fabric meets the requirements for acceptable lines of demarcation at either the neck, armholes or sleeves.

III. Lines of Demarcation	
Comment	Response
How does Customs define an acceptable line of demarcation?	Customs definition of an acceptable line of demarcation is a clearly visible change in knit pattern which is knit directly into the fabric, is continuous, and has clear starting and ending points.
Would the following lines of demarcation qualify as acceptable under Customs definition?	We emphasize that the technical terminology (appearing in “underlines”) that follows in examples A through E, are taken from submissions of actual samples received by Customs. They should in no way be taken to represent terminology which has been adopted by Customs in determining knit to shape panels. Terminology will vary from manufacturer to manufacturer.

Comment: A. Referred to as “Links-Links with Jersey Needle” lines of demarcation knit into the fabric as in the arm hole opening lines



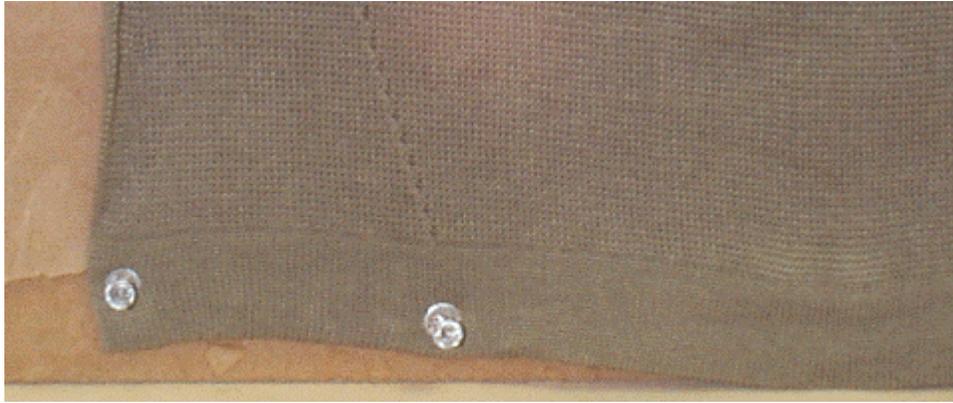
Response: A. The “links links with jersey needle” lines of demarcation, which in effect consist of a change in the knit pattern construction along the arm hole openings, with clear and continuous starting and ending points, qualify as acceptable.

Comment: B. Referred to as "Floating Jacquard with Drop Needle" lines of demarcation at the neck opening



Response: B. The "floating jacquard with drop needle" lines of demarcation, which in effect consist of a change in the knit pattern construction along the neck opening in a semi-circular pattern, with clear and continuous starting and ending points, qualify as acceptable.

Comment: C. Referred to as "Half Milano with Pointelle" lines of demarcation at the arm hole openings



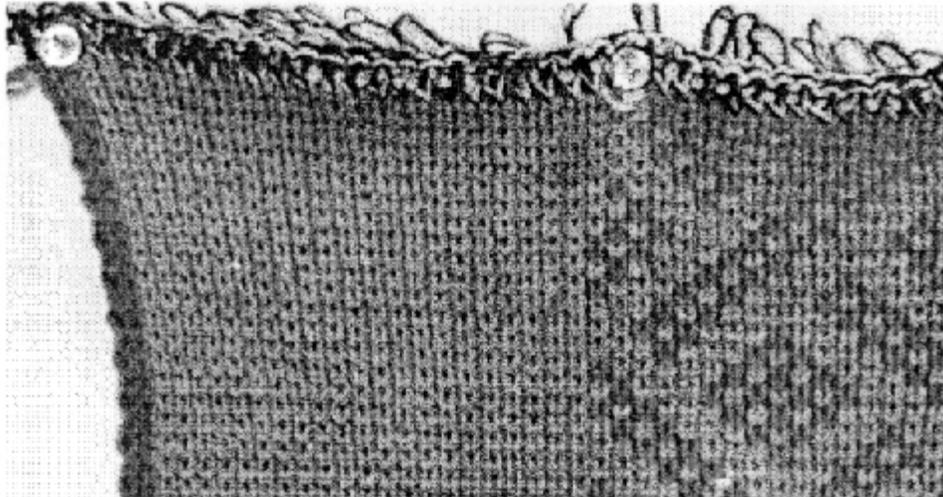
Response: C. The "half milano with pointelle" lines of demarcation which in effect consist of a series of holes knit along the arm hole openings, with clear and continuous starting and ending points, qualify as acceptable

Comment: D. Referred to as "Aran Cable Texture with Reverse Jersey" lines of demarcation at the neck and armhole openings



Response: D. The "aran cable texture with reverse jersey" lines of demarcation which in effect consist of a change in the knit pattern construction along the neck and arm hole openings pose a problem. Where the lines of demarcation are located around the neck opening, it is Customs view that those lines are unambiguous, continuous, and provide clear starting and ending points. The contour that is created by those lines is readily apparent and has the appearance of a clear semi-circular pattern which has been blocked for cutting. As such, the lines of demarcation at the neck qualify. What is referenced as "lines of demarcation" along the arm hole openings however, do not meet Customs definition. Although the construction of those "lines of demarcation," represent a change in the knit construction, it is Customs position upon examination of that panel, that the lines are ambiguous and lack a readily identifiable start and end point. It is difficult to distinguish what is referred to as "lines of demarcation" from the actual design pattern of the panel. As such although the panel itself would qualify as a knit to shape panel because of the presence of acceptable lines of demarcation at the neck, were that panel to feature only what is referred to as "lines of demarcation at the arm hole openings," the panel would then be precluded from consideration as a knit to shape panel.

Comment: E. Referred to as "Jacquard with Change in Color" lines of demarcation at the arm hole openings



Response: E. The "jacquard with change in color" lines of demarcation which in effect consist of a change in the color on the panel around the arm hole openings do not qualify as acceptable lines of demarcation. The change in color is not a change which is knit directly into the fabric, as for example a change in the knit construction. Additionally, it is Customs position that a change in color is not a clear and unambiguous line of demarcation with clear starting and ending points particularly because this change in color can easily be viewed as a simple function of color/pattern in the scheme of fashion and design.

<u>IV. Hoods</u>	
Comment	Response
Does Customs view a hood as a “major part” of a sweater which also must be taken into consideration for purposes of origin?	No. It is Customs position that the term “major parts” encompasses only the front, back and sleeve panels and does not include a hood.

<u>V. Shoulder Sloping.</u>	
Comment	Response
Does the process of “shoulder sloping” disqualify a part from being considered knit to shape?	<p>No. The process referred to as “shoulder sloping” has been described to Customs by some importers as follows:</p> <p>Front and back sweater panels, which are otherwise knit to shape under Customs current definition may have unfinished jersey edges at the shoulders. The front and back panels are joined together at the shoulders by linking/looping at an angle to conform to the wearer’s shoulders. The excess triangular wedge of material that is created on the inside of the shoulders can be overlock stitched at the ends with a slight trimming (approximately ¼ inch), leaving an excess (also referred to as a “butterfly seam”). In the alternative, the overlock stitching machine can trim a slightly larger amount of material as it sews (approximately about ½ inch). It is Customs position that shoulder sloping does not disqualify a panel from being knit to shape.</p>

<u>V. Shoulder Sloping.</u>	
Comment	Response
Does the process of working the sleeve caps disqualify a part from being considered knit to shape?	No. The process of working the “sleeve caps” has been described to Customs by some importers as follows: Similar to the process of shoulder sloping, the trimming of the excess material around the cap or shoulder area of the sleeve panel. In Customs view this trimming of excess material does not disqualify the panels from being considered a knit to shape panel.

Conclusion

In conclusion, this document should not be viewed as an exhaustive representation of all of the issues which may be associated with “knit to shape” garments. This document does however represent Customs attempt to clarify a number of outstanding issues on Customs interpretation of that term. We emphasize the fact that the information provided in this publication is for general information purposes only. To obtain an accurate origin determination reflective of the specific facts and circumstances which surround a specific importation, an importer should submit both a completed garment and the requisite panels as they come off the machine to obtain a binding ruling under the Customs Regulations, 19 CFR Part 177. If samples are not provided/submitted at the time of the ruling request, Customs may request samples before issuing a ruling. Requests may be sent to the Director, National Commodity Specialist Division, U.S. Customs Service, Att: Classification Ruling Requests, 6 World Trade Center, New York, NY, 10048, or Office of Regulations and Rulings, Commercial Rulings Division, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, DC 20229.

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, 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 1-800-NO-DROGA



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