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No. 1049

The Embassy of the United States of America presents its compliments to the Department of Foreign Affairs of the Republic of the Philippines and has the honor to transmit the following visa arrangement between the Governments of the United States of America and the Republic of the Philippines concerning textiles and textile products.

Begin Text:

VISA ARRANGEMENT
BETWEEN THE GOVERNMENTS OF
THE UNITED STATES OF AMERICA
AND
THE REPUBLIC OF THE PHILIPPINES
CONCERNING TEXTILES AND TEXTILE PRODUCTS

1. Definitions:

A. For the purpose of this Arrangement, the term "textiles" means textiles and textile articles of cotton, wool, man-made fibers, other vegetable fibers, blends of any of the foregoing fibers and blends containing silk, but does not include apparel which contains 70 percent or more silk by weight, or products other than apparel of vegetable fibers other than cotton or blends thereof or of silk blends.

B. The term "category" includes part categories and merged categories as established in the bilateral Agreement.

C. An "ELVIS Transmission" is a message, sent electronically to the U.S. Customs Service, by the country of origin of the textile exported to the United States, or by its representatives, which describes the shipment and includes the visa number assigned to the shipment.

2. Visa Requirements:

A. Each shipment of textiles or textile articles produced or manufactured in the Philippines and exported to the United States which are subject to the terms of the MFA, and as defined in paragraph 1, above, in categories 300-369, 400-469, 600-670, and 831-859, including part categories and merged categories, (but not categories 355, 356, 655, 656, 455, 371, and 671), and which are not eligible for the exemptions noted in the Exempt Certification Requirements, Section 4, below, (also provided for in Annex A attached) and which are not covered by paragraph 5 of this note, shall be visaed by your Government.

Shipments covering merchandise in categories 800-810 and 863-399 do not require a visa. However, should additional categories, merged categories or part categories be added to or changed in the Bilateral Agreement or become subject to import quotas, the entire category or categories shall be automatically included in the coverage of the Visa Arrangement. Merchandise exported on or after the date the category is added to or changed in the Agreement or becomes subject to import quotas shall require a visa.

B. This visa shall be presented to the U.S. Customs Service before entry, or withdrawal from warehouse for consumption, into the Customs territory of the United States (the 50 States, the District of Columbia and Puerto Rico).

C. A shipment shall be visaed by the stamping of the original circular visa in blue ink on the front of the original commercial invoice. The original visa shall not be stamped on duplicate copies of the invoice. The original of the invoice with the original visa stamp will be required to enter the shipment into the United States. Duplicates of the invoice and/or visa may not be used for this purpose.

D. Each visa stamp will include the following information:

I. The visa number and date of issuance;

(The visa number shall be nine digits and letters, beginning with one numeric digit for the last digit of the year of export, the two character alpha country code specified by the International Organization for Standardization (ISO), and a six digit numeric serial number identifying the shipment; e.g., 6PH123456).

II. The signature of the issuing official

III. The correct category(s), part category(s), merged category(s), quantity(s), and unit(s) of quantity in the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the U.S. Tariff Schedules of the United States Annotated (TSUSA), e.g., "Cat. 340 - 510 DZ." Annex B lists all the part-category and merged category visas required for entry. Products covered by merged category quotas must be accompanied by either a merged category visa or the correct category visa corresponding to the actual shipment, (e.g., quota category 333/334 may be visaed as "category 333/334" or if the shipment consists solely of category 333 merchandise, the shipment may be visaed as "category 333" but not as "category 334."). Quantities must be stated in whole numbers. Decimals or fractions will not be accepted.

E. If the quantity indicated on the visa is less than that of the shipment, entry shall not be permitted.

F. If the quantity indicated on the visa is more than that of the shipment, entry shall be permitted.

G. The visa will not be accepted and entry will not be permitted if the shipment does not have a visa, or if the visa number, date of issuance, signature, category, quantity or units of quantity are missing, incorrect or illegible, or have been crossed out or altered in any way.

H. The categories and quantities shall be those determined by the U.S. Customs Service.

I. If the visa is not acceptable, then a new visa must be obtained from the Philippine Government or a visa waiver must be presented to the U.S. Customs Service before any portion of the shipment will be released. A visa waiver may be issued by the Department of Commerce at the request of the Embassy in Washington for the Government of the Philippines. A visa waiver only waives the requirement to present a visa at entry, it does not waive any quota requirements. Visa waivers will only be issued for classification purposes or for one time special purpose shipments that are not part of an ongoing commercial enterprise.

J. If the visaed invoice is deficient, the U.S. Customs Service will not return the original document after entry or attempted entry, but will provide a certified copy of that visaed invoice for use in obtaining a new correct original visaed invoice, or a visa waiver.

K. If import quotas are in force, only the actual quantity in the shipment and the correct category will be charged to the restraint level.

L. The complete name and address of a company actually involved in the manufacturing process of the textile product covered by the visa shall be provided on the textile visa document.

M. If a shipment from the Philippines has been allowed entry into the commerce of the United States with either an incorrect visa or no visa and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or visa waiver is provided.

N. The Government of the United States of America will make available to the Government of the Philippines, upon request, information of the amounts and categories charged for all items subject to quota administered by the U.S. Customs Service, including items covered in 2 (M) above and 3(F) below.

3. ELVIS Requirements:

A. Each ELVIS message will include the following information:

I. The visa number as defined in 2.D.I above.

II. The date of issuance: The date of issuance shall be the day, month and year on which the visa was issued.

III. The correct category(s), merged category(s), part category(s), quantity(s), and unit(s) of quantity of the shipment in the unit(s) of quantity provided for in the U.S. Department of Commerce Correlation and in the Harmonized Tariff Schedule of the United States, Annotated or successor documents

IV. The manufacturer ID number (MID). The MID shall begin with 'PH', followed by the first three characters from each of the first two words of the name of the manufacturer, followed by the largest number on the address line up to the first four digits, followed by three letters from the city name.

B. Entry of a shipment shall not be permitted:

I. If an ELVIS transmission has not been received for the shipment from the Philippines;

II. If the ELVIS transmission for that shipment is missing any of the following:

- a) visa number
- b) category or part category
- c) quantity
- d) unit of measure
- e) date of issuance
- f) manufacturer ID number

III. If the ELVIS transmission for the shipment does not match the information supplied by the importer, or the Customs broker acting as an agent on behalf of the importer, with regard to any of the following:

- a) visa number
- b) category or part category
- c) unit of measure

IV. If the quantity being entered is greater than the quantity transmitted; or

V. If the visa number has previously been used, or canceled, except in the case of a split shipment or if an entry has already been made using the visa number.

C. A new, correct ELVIS transmission from the country of origin is required before a shipment that has been denied entry for one of the circumstances mentioned in 3.B.I-V will be released.

D. Visa waivers will only be considered for the circumstance described in paragraph 3.B.I. , if the shipment qualifies as a one time special purpose shipment that is not part of an ongoing commercial enterprise or for legitimate classification disputes.

E. Shipments will not be released for forty-eight hours in the event of a system failure. If system failure exceeds forty-eight hours, for the remaining period of the system failure the U.S. Customs Service will release shipments on the basis of the paper visaed document.

F. If a shipment from the Philippines is allowed entry into the commerce of the United States with an incorrect visa, no visa, an incorrect ELVIS transmission, or no ELVIS transmission, and redelivery is requested but cannot be made, the shipment will be charged to the correct category limit whether or not a replacement visa or waiver is provided or a new ELVIS message is transmitted.

G. The U.S. Customs Service will provide Philippine authorities with a report containing information on visa utilization that can be accessed at any time. This report will contain:

I.visa number

II.category number

III.quantity charged to quota

IV.unit of measurement

V.entry number

VI.entry line number

4 Exempt Certification Requirements:

A.Textiles and textile articles provided for in paragraphs 4A 1-3, below, and in Annex A attached, will be exempt from the levels of restraint (quotas), and vise; and ELVIS requirements if they are certified, prior to the shipment's leaving the Philippines, by the placing of the original rectangular-shaped stamped marking in blue ink on the front of the original commercial invoice. The original exempt certification shall not be affixed to duplicate copies of the invoice. The original copy of the invoice with the original exempt certification will be required to enter the shipment into the United States. Duplicate copies of the invoice and/or exempt certification may not be used.

1.Handwoven and Handloomed Fabrics of the Cottage Industry

2.Handmade Articles and Garments of Handwoven and Handloomed Fabric: All items must be cut, sewn, or otherwise fabricated by hand in order to qualify for this exemption. They may not include machine stitching.

3.Traditional Folklore Handicraft Products: Only products which fall within the definition of "Philippines Items" in Annex A attached, qualify for this exemption provided that they are cut, sewn, or otherwise fabricated by hand. They may not include machine stitching.

B. Requirements for Exempt Certification Stamp: Each exempt certification stamp will include the following information:

I.Date of issuance.

II.Signature of issuing official.

III.The basis for the exemption shall be noted as:

a.Handwoven fabric or Handloomed fabric (whichever is appropriate).

b. Handmade textile products.

c. The name of the particular traditional folklore handicraft product (Philippines Items) as listed in Annex A attached, e.g., "Banaue cloth".

C. Should a shipment be exported from the Philippines without an exempt certification's being issued prior to the date of expiration, or should the certification be incorrectly certified (i.e., the date of issuance, signature or basis for the exemption is missing, incorrect or illegible, or has been crossed out or altered in any way), then the exempt certification will not be accepted and entry shall not be permitted.

D. If the exempt certification is not acceptable, then a visa or a visa waiver must be obtained prior to release of any portion of the shipment. An exempt certification may not be issued after the exportation of the shipment from Philippines. If quotas are in force, the shipment will be charged to the appropriate quota level.

E. The Government of the Philippines shall provide the Government of the United States of America each month with a list of all shipments certified exempt by the Government of the Philippines during the previous month. The list shall contain the following information for each shipment: Description of items, units, and quantities.

5. Shipments not requiring visas or exempt certifications:

Merchandise imported for the personal use of the importer and not for resale, regardless of value, and properly marked commercial sample shipments valued at \$250 dollars or less do not require a visa, ELVIS transmission or exempt certification for entry and shall not be charged to Agreements levels.

6. Other Provisions:

A. The Government of the United States of America shall publish a notice in the Federal Register regarding the visa and exempt certification systems hereby established. The Visa and Exempt Certification stamped markings presently in use will continue in use. Any change to the stamped markings must be approved by, and two original exemplars provided to, the Government of the United States of America prior to its use, to be effective sixty days after approval. The Government of the Philippines shall notify the Government of the United States of America of any changes of officials authorized to issue visas or exempt certifications.

B. The Government of the Philippines shall provide the Government of the United States of America each month with a list of all shipments visaed by the Government of the Philippines during the previous month.

C. Except as provided in paragraph 5 of this Arrangement, any shipment which requires a visa but which is not accompanied by a valid and correct visa in accordance with the foregoing provisions, shall be denied entry by the Government of the United States of America unless the Government of the Philippines authorized the entry and any charges to the Agreement levels.

D. An invoice may cover visaed merchandise or exempt certification merchandise, but not both-

E. The Agreement shall be in effect for merchandise exported on or after April 13, 1987.

F. Either Government may terminate, in whole or in part, this administrative arrangement by giving ninety days written notice to the other.

The Embassy of the United States of America avails itself of this opportunity to renew to the Department of Foreign Affairs assurances of its highest consideration.

Embassy of the United States of America,
Manila, December 18, 1996.

Attachments:

Annex A

Annex B

Annex A

PHILIPPINE ITEMS

PHILIPPINE TRADITIONAL FOLKLORE

HANDICRAFT TEXTILE PRODUCTS

1. Philippine items are traditional Philippine products, cut, sewn or otherwise fabricated by hand in cottage units of the cottage industry. The following is the agreed upon list of such items:

- A. Batik and hablon fabrics - hand woven fabrics of the cottage industry.
- B. Banaue cloth - cotton handloom fabric in multi-colors.
- C. Other hand woven and handloom fabrics of the cottage industry.
- D. Articles and garments made by hand from hand woven and hand loomed fabrics.

ANNEX B The following is a list of merged categories visas

331/631

333/334

338/339

340/640

341/641

342/642

347/348

351/651

352/652

359-C/659-C

359-O/659-O

445/446

638/639

645/646

647/648

The following is a list of part-category visas:

359-C

359-0 (other than 359-C)

369-S

369-0 (other than 369-S)

659-C**659-H**

659-0 (other than 659-C, 659-H)

669-P

669-0 (other than 669-P)

670-L

670-0 (other than 670-L)

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