



Ottawa, May 31, 2012

MEMORANDUM D9-1-9

In Brief

FALSE DESCRIPTION OF GEOGRAPHICAL ORIGIN OF GOODS AND GOODS WITH TRADE MARKS – TARIFF ITEM NO. 9897.00.00

This memorandum has been updated to accurately reflect the Canada Border Services Agency's (CBSA) role in administering the provisions of the *Customs Tariff*. Additionally, terminology has been updated to reflect changes in the CBSA's organizational structure.





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FALSE DESCRIPTION OF GEOGRAPHICAL ORIGIN OF GOODS AND GOODS WITH TRADE MARKS – TARIFF ITEM NO. 9897.00.00

This memorandum outlines and explains the provisions of tariff item No. 9897.00.00 which prohibits the entry into Canada of certain goods.

Legislation

Tariff item No. 9897.00.00 reads, in part:

“Any goods, in association with which there is used any description that is false in a material respect as to the geographical origin of the goods or the importation of which is prohibited by an order made under the *Trade-marks Act*.”

GUIDELINES AND GENERAL INFORMATION

1. Tariff item 9897.00.00 prohibits in part, the importation of: “any goods in association with which there is used any description that is false in a material respect as to the geographical origin of the goods.” It is aimed at any description that might mislead any person to believe that the goods are of Canadian origin, or of the origin of any foreign country other than the actual country of origin.

Exceptions

2. Articles such as labels, seals, tags, wrappers, and containers, not intended to be sold in the condition as imported but to be attached to or combined with a Canadian product, would not be affected by the prohibition of tariff item No. 9897.00.00, even though they might bear a Canadian registered trade mark containing or combined with the name “Canada” or the name of the location in Canada of the user of the trade name or trade mark.

3. Information on goods, or labels attached to goods, denoting the identity and principal place of business of the persons or distributor in Canada, is not considered to contravene the provisions of tariff item No. 9897.00.00, provided the goods or labels do not contain any description that is false as to the geographical origin of the goods.

4. This tariff item does not apply to articles imported by individuals for purposes other than commercial, as personal effects or baggage (e.g., under tariff items Nos. 9804.10.00, 9804.20.00, 9804.30.00, 9804.40.00, 9805.00.00, and 9807.00.00) or as personal gifts.

5. Where goods are found to be falsely described as provided for in paragraph 1 of this memorandum, border services officers may allow the importer to mark the goods appropriately either in the warehouse or under CBSA supervision at the importer’s premises. The importer should also be directed to the requirements outlined in Memorandum D11-3-1, *Marking of Imported Goods*.

6. Tariff item No. 9897.00.00 prohibits the importation of goods which are prohibited by an order under the *Trade-marks Act*. Goods may not be prohibited under tariff item No. 9897.00.00 until a court order specifically prohibiting their importation has been delivered to CBSA officials. Court orders for interim custody of the goods (such as interim injunctions), are not prohibitory orders and do not fall under tariff item No. 9897.00.00.

7. Section 136 of the *Customs Tariff* states, in part, that the importation of goods of tariff item No. 9897.00.00 is prohibited. The Agency draws the attention of importers/owners to sections 36, 99, 101, 102, and 142 of the *Customs Act*, respecting abandonment, detention, and exportation of goods which are prohibited under the provisions of section 136 of the *Customs Tariff*.

8. For more information, within Canada call the Border Information Service at **1-800-461-9999**. From outside Canada call 204-983-3500 or 506-636-5064. Long distance charges will apply. Agents are available Monday to Friday (08:00 – 16:00 local time/except holidays). TTY is also available within Canada: **1-866-335-3237**.

REFERENCES

<p>ISSUING OFFICE – Commercial Border Programs Division Other Government Department Programs Unit</p>	<p>HEADQUARTERS FILE – T.C. 9967 and tariff item No.9897.00.00</p>
<p>LEGISLATIVE REFERENCES – <i>Customs Tariff</i>, section 136 <i>Customs Act</i>, sections 36, 99, 101, 102, and 142</p>	<p>OTHER REFERENCES – D11-3-1</p>
<p>SUPERSEDED MEMORANDA “D” – D9-1-9, April 20, 2012</p>	

Services provided by the Canada Border Services Agency
are available in both official languages.

