

SPC&B Update

February 27, 2017

CBP Amends Guidance on Post-Importation Claims



CBP Amends its Guidance on Post-Importation Claims for Preferential Tariff Treatment

In August of 2014, Customs & Border Protection (CBP) issued a guidance document that specified that when implementing legislation for certain preference programs specifically provides for post-importation claims to be made under 19 USC 1520(d) (e.g., NAFTA), that is the only appropriate method to be used. CBP also stated at that time that for those preference programs that did not have a statutory post-importation mechanism under 19 USC 1520(d) (e.g., AGOA), claims could not be submitted via protest. Rather, CBP stated that such claims could only be accomplished with Post Entry Amendments (PEAs) or Post Summary Corrections (PSCs), prior to liquidation. Thus, once an entry liquidated, the importer was barred from filing a preference claim.

In light of a recent decision issued by the Court of International Trade (CIT), CBP has revised its guidance to state that for preference programs that do not have a statutory post-importation mechanism under Section 1520(d), post-importation claims may be filed under PEAs and PSCs prior to liquidation and by protests after liquidation. For preference programs that have a Section 1520(d) post-importation provision, the only possible method is a Section 1520(d) claim, which must be filed within one year of entry.

For your reference, we have the following Free Trade Agreements (FTAs) and other special trade programs in place:

African Growth & Opportunity Act (AGOA), Australia FTA, Bahrain FTA, Caribbean Basin Economic Recovery Act (CBERA), Caribbean Basin Trade Promotion Act (CBTPA), Chile FTA, Civil Aircraft Agreement, Colombia FTA, Dominican Republic-Central America FTA (CAFTA-DR), Generalized System of Preferences (GSP), Insular Possessions, Israel FTA, Jordan FTA, Korea FTA, Morocco FTA, Panama FTA, Peru FTA, Pharmaceutical Products Agreement, Singapore FTA, and Uruguay Round Concession on Intermediate Chemicals for Dyes

For a complete listing of the appropriate methods for filing post-entry claims for these programs, please contact us.

If you have any questions about post-importation claims or about trade preference programs in general, please contact Gail T. Cumins at gcumins@spcblaw.com, Alli Baron at abaron@spcblaw.com, Donna Shira at dshira@spcblaw.com, or Ken Paley at kpaley@spcblaw.com, or call us at 212-425-0055.

Sharretts, Paley, Carter & Blauvelt, P.C.
75 Broad Street, 5th Floor
New York, NY 10004
212-425-0055
customs@sharretts-paley.com

For more than sixty years, Sharretts, Paley, Carter & Blauvelt, P.C. has been one of the preeminent firms in the fields of global customs law, international trade law, and compliance. Our mission is to provide our clients with the personalized, focused service of a small-sized firm while offering the advantages of a top national law firm.

Attorney Advertising pursuant to New York RPC 7.1. This newsletter is provided for information purposes only.