
❖ SPC&B Update ❖

A Newsletter for Clients of Sharretts, Paley, Carter & Blauvelt, P.C.

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ITC Proposes Changes to Footwear Provisions



The International Trade Commission (ITC) has posted a recommendation for additional new Harmonized Tariff Schedule numbers for the classification of certain Chapter 64 footwear. With these additional numbers, the ITC has proposed 21 provisions that would provide for the removal of the affected footwear from HTS 6405 into HTS 6402 and HTS 6404, but retain the lower HTS 6405 duty rates.

In this regard, it is the current practice of U.S. Customs and Border Protection (CBP) to classify **all imported footwear** that have outer soles of textile materials (i.e., the material having the greatest surface area in contact with the ground) under heading 6405 at 7.5%, if the upper is of vegetable fibers, and 12.5% for uppers of all other materials, except wool felt, which is dutiable at 2.5%.

Under the proposed Tariff Schedule Modifications, there would be classification and duty distinctions, depending upon the nature of the textile material that formed the external surface of the outer sole. In this regard, when textile materials are added to a rubber or plastic outer sole but **“do not possess the characteristics usually required for normal use of an outer sole, including durability and strength,”** those textile materials will not be considered when determining the constituent material of the outer sole. Commonly, this will occur when the textile materials have been applied to the rubber plastic soles by attaching a separate layer of textile by glue or cement or by adding textile ornamental materials or by adding textile flocking; all of which ordinarily wear off during use. Consequently, this type of outer sole will be treated as being of “rubber or plastic” and the footwear itself will be classifiable under headings 6401 through 6404, depending upon the material of the upper.

The proposed Tariff Schedule Modifications, if ultimately adopted in the form initially proposed by Treasury will create new tariff provisions under headings 6402 and 6404 that will continue the duty rates of 7.5%, for vegetable fiber uppers and 12.5% for other material uppers for certain footwear, even if the textile materials on the outer sole do not possess the characteristics usually required for normal use of an outer sole, including durability and strength. **At the same time, however, these duty rates will not be continued for waterproof footwear, for protective footwear, including rubber or plastic upper footwear incorporating protective toe caps, nor will they be applicable for textile upper athletic type footwear valued over \$12 per pair. Rather the duty rates for such footwear will increase to 37.5% for the waterproof and protective footwear and 20% for the athletic type footwear.**

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All footwear that have rubber or plastic outer soles with an external layer of added textile materials that **do possess the characteristics usually required for normal use of an outer sole, including durability and strength will continue to be classified under heading 6405** at 7.5%, if the upper is of vegetable fibers, and 12.5% for uppers of all other materials, except wool felt, which is dutiable at 2.5%. The textile materials of the outer soles will most commonly possess the requisite characteristics when such textile materials have been added by means of an embedding process.

As noted in the update the final recommendation to the President is now scheduled for February 21, 2011. Accordingly, the new provisions covered by the final recommendation could become effective as of July 2011. The exact timing will not be known until the President actually acts on the final ITC recommendation.

Until such time the status quo remains in effect.

If you should have any further questions, please feel free to contact Gail Cumins at gcumins@spcblaw.com or Peter Jay Baskin at pjbaskin@spcblaw.com, or call us at 212-425-0055.
