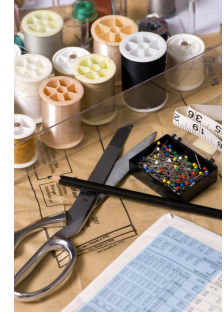

❖ SPC&B Textile Report ❖

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

June 1, 2011

CBP Focuses on Textile and Apparel Enforcement Issues



In a recent report, Customs emphasized the importance of focusing on textile and apparel enforcement. Textile and apparel imports represent more than 45% of all duties collected, and Customs routinely reviews this product area, identifying areas of high-risk to target for additional enforcement. Last week, Customs released a report of such a review, identifying four areas of risk.

The first relates to Free Trade Agreement (“FTA”) compliance. Customs has been utilizing Textile Production Verification Teams (“TPVTs”) to conduct on-site verification of foreign textile and wearing apparel manufacturers. The teams review and verify production capability and compliance with FTAs and other trade preference programs. Customs visited 221 factories in 11 countries in 2010. Violations of FTAs/trade preference programs were found in 32% of the reviews, with 19% having a violation relating to illegal transshipment. Importers can expect Customs to continue to emphasize FTA compliance by conducting entry reviews with Requests for Information (CF28s) and by additional on-site visits to their foreign suppliers. Accordingly, it is recommended that importers filing multiple preference claims conduct regular audits of production records, Certificates of Origin, and supporting affidavits, to ensure that they are in compliance with all applicable requirements.

A second area of risk is the undervaluation of textiles and wearing apparel by entities with no legal right to make entry. Customs determined that goods are being imported using false identities and addresses, making it difficult for Customs to collect additional duties or penalties.

A third area of risk is the misclassification of wearing apparel, which according to Customs often is intentionally done to circumvent high duty rates. Almost 50% of the textiles sampled by Customs laboratories were found to be misclassified in 2010. In view of these results, Customs probably will increase the number of CF28s requesting samples and component breakdowns, to verify classification of imported textiles. We may also see a rise in penalty actions for fraudulent or negligent misclassifications of textiles and apparel.

The fourth area of risk identified in the recent Customs report is the illegal transshipment of goods through the United States into Mexico. These goods are falsely claimed to be of U.S. origin and are exported to Mexico under false NAFTA claims. Two types of products that are commonly transshipped in this way are

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completed apparel (using U.S. origin claim to circumvent Mexican dumping duties against China) and fabric (used in production of apparel imported back into the U.S. under false NAFTA claims).

Customs also released statistics on textile and apparel enforcement in 2010, including two seizures for quota violations, valued at \$157,000. Seizures for violations of intellectual property rights were much more common, with 4,552 seizures having a value of \$18.3 million. Customs conducted 12,284 examinations of imported goods in 2010, with 1,527 (12%) having discrepancies. While 60 audits were initiated by Customs in 2010, 38 audits were completed, with recommended recoveries of \$1.8 million. Customs imposed 43 commercial fraud penalties in 2010, with a total value of \$11 million.

For information on textile and apparel trade enforcement and how you can protect your company from increased duties and/or penalties, please contact Gail Cumins or Donna Shira at gcumins@spcblaw.com and dshira@spcblaw.com respectively, or call (212) 425-0055.
