

August 22, 2008

NEW ENTRY REQUIREMENTS UNDER THE FIRST SALE RULE

In a notice published on the U.S. Customs webpage on August 21 (as attached), imports valued using the price paid by a middleman to a manufacturer (or other supplier), rather than using the price paid by the importer to the middleman, must reflect the use of the "first sale" with an "F" next to the declared value on the Customs Form 7501.

This requirement is effective August 20, 2008, and any entries made on or after that date must show the "F" if the "first sale" value has been used. Entries subject to the First Sale Declaration Reporting Requirement, but made without the proper designation between August 20 and September 19 will not be rejected, but must be amended to show the correct "F" designation.

If you have any questions, please feel free to contact partner Christopher M. Kane at extension 230 at any time.

Thank you.

Note: This material is not, nor is it intended to be, legal advice, which can only be provided by Simon Gluck & Kane LLP on a case by case basis.

August 20, 2008

MEMORANDUM FOR: DIRECTORS, FIELD OPERATIONS

FROM: Executive Director, Trade Policy and Programs
Office of International Trade

SUBJECT: Grace Period for the Implementation of the First Sale Declaration Requirement

PLEASE PASS THIS INFORMATION TO PORT DIRECTORS, ASSISTANT PORT DIRECTORS FOR TRADE, IMPORT SPECIALISTS, ENTRY SPECIALISTS, CBP OFFICERS, IMPORTERS, BROKERS, CARRIERS AND ANY OTHER INTERESTED PARTIES.

The purpose of this memorandum is to inform Customs and Border Protection (CBP) Field Offices, the importing public, and all other interested parties of a grace period that is being granted to importers with regard to the implementation of the First Sale Declaration Requirement established under section 15422(a) in the Food, Conservation and Energy Act of 2008, commonly referred to as the Farm Bill.

The First Sale Declaration Requirement refers to the requirement for importers to provide a declaration to CBP at the time of entry for all goods entered for consumption or withdrawn from warehouse whether the value was determined on the basis of price paid by the buyer in the first or earlier sale occurring prior to introduction of the merchandise into the United States. To meet this requirement the First Sale Declaration Requirement requires that an importer of merchandise must enter an "F" next to the declared value at the line level on CBP Form 7501, or the electronic filing equivalent, when the declared transaction value of the imported merchandise is determined on the basis of the price paid by the buyer in a sale occurring earlier than the last sale prior to the introduction of the merchandise into the United States.

Under the Farm Bill, the First Sale Declaration Requirement is effective for a one-year period beginning August 20, 2008. The interim rule describing the First Sale Declaration Requirement will be on public display at the Federal Register on August 20, 2008, but will not be published until after August 20, 2008. Further, the Trade has advised CBP that, due to the complexity of the programming changes required, it will not be ready to comply with the First Sale Declaration Requirement on August 20, 2008.

Accordingly, in order to permit the trade sufficient time to comply with the requirements in the First Sale Declaration Requirement, and thereby ensure the integrity of the data collected on importations, CBP will delay the enforcement of the First Sale Declaration Requirement for 30

days. Thus, CBP will commence the enforcement of the data collection requirements contained in the First Sale Declaration Requirement on September 20, 2008. Entries subject to the First Sale Declaration Requirement made between August 20 and September 19 will not be rejected based on any First Sale Declaration requirements. However, entries subject to the First Sale Declaration Requirement made between August 20 and September 19 will require amendment. Information describing how the amendments will be made will be forthcoming.

The Trade is, however, strongly encouraged to implement the requirements of the First Sale Declaration Requirement as soon as feasible before September 19, 2008.

Questions regarding this policy should be directed to Ms. Marla Bianchetta, Entry Summary and Drawback Branch at (202) 863-6539 or email to marla.bianchetta@dhs.gov.

/s/

Brenda B. Smith

cc: OFO, Trade Operations Division