

March 24, 2010

The Honorable Sander Levin
Chairman, Committee on Ways and Means
U.S. House of Representatives

The Honorable Max Baucus
Chairman, Committee on Finance
United States Senate

The Honorable Dave Camp
Ranking Member, Committee on Ways and
Means
U.S. House of Representatives

The Honorable Charles Grassley
Ranking Member, Committee on Finance
United States Senate

Dear Chairman Levin, Chairman Baucus, Congressman Camp, and Senator Grassley:

We are writing to express our strong support for the preservation of the First Sale Rule, which allows U.S. importers to value imported merchandise using the “first sale” in a series of transactions as the basis for determining duties on products that come into the United States.

You may recall that U.S. Customs and Border Protection (CBP) proposed to revoke the First Sale Rule in 2008 without consulting the Congress. With your leadership, such action was delayed because of language included in the Farm Bill prohibiting CBP from implementing any change to the First Sale Rule until January 1, 2011. Our businesses depend on predictable rules under which we operate and we are concerned that revocation may be contemplated again. We ask your support to maintain the First Sale Rule and to ensure that CBP does not attempt to revoke the long-standing policy again.

In December 2009 the U.S. International Trade Commission published a report on the First Sale Rule based on data collected in connection its use. The report found that 23,000 importing entities use First Sale in the United States amounting to \$38.5 billion imports in products such as apparel, electronics, footwear, machinery, beverages, and pharmaceutical products. Collectively, this amount represents 8.5 percent of all importing entities and about 2.4 percent by value of total U.S. trade.

From these results alone, it is clear that there is widespread use of, and support for, the First Sale Rule. The report documents the use of First Sale for many industries and for a variety of situations. The volume of trade affected by the First Sale Rule is the same or greater than other popular trade programs, such as the Generalized System of Preferences, which also have widespread support. As such the First Sale Rule should be maintained.

Although the report did not include any subjective data as to why companies use the First Sale Rule, it is clear that the First Sale Rule is critical to both the companies that use it and to the consumers that purchase these products. The First Sale Rule has allowed U.S. importers and exporters to remain competitive in the global marketplace and has resulted in millions of dollars in savings that are either used to help generate employment opportunities or that are passed through to American consumers.

For over 20 years, the courts and CBP have recognized the First Sale Rule as a viable customs valuation methodology used to determine the appraised value of imported products for customs purposes. If the First Sale Rule were revoked or even threatened to be revoked, our business models would be compromised due to prospects of increased duties, fees and taxes.

Additionally, adoption of the change would require companies to restructure operations that were built around the First Sale Rule. These increased duties would either be passed on to consumers – resulting in a price increase that would disproportionately affect low income Americans on basic necessities like clothing and shoes – or would have to be absorbed by our companies and offset through cuts in payrolls or salaries.

We urge you on the strongest possible terms to continue to support the First Sale Rule.

Signed---

Companies

Abercrombie & Fitch	International Brand Partners LLC
A.H. Schreiber Co. Inc.	J.C. Penney Corporation, Inc.
American Eagle Outfitters, Inc.	Jockey International, Inc.
American and Efird, Inc.	Jones Apparel Group
A.N. Deringer, Inc.	Kellwood Company
Ariela-Alpha International L.L.C.	Kohl's
Atalanta Corporation	Landau Uniform
Best Buy Co., Inc.	Lands' End, Inc.
Boscov's Department Store, LLC	Leading Lady, Inc.
Carhartt Incorporated	Levi Strauss & Co.
Carole Hochman Design Group	Lumber Liquidators
Carter's	Macy's, Inc.
Cavan Consulting Group	Maidenform
Charles Komar & Sons, Inc.	Mattel, Inc.
Charming Shoppes, Inc.	MCT Dairies, Inc.
Chico's FAS, Inc.	Michael's Stores, Inc
David's Bridal	New Balance Athletic Shoe, Inc.
DCI Cheese	New York & Company
Deb Shops, Inc.	NIKE, INC.
Eddie Bauer LLC	Nordstrom, Inc.
Finlandia Cheese	Norseland, Inc.
Gap Inc.	Outdoor Gear, Inc.
Gerber Childrenswear LLC	Oxford Industries, Inc.
Guess?, Inc.	Pacific Sunwear of Calif. Inc
Haggar Clothing Co.	Perry Ellis International
Hampshire Group	Phillips Van Heusen Corporation
Hanesbrands, Inc.	Robar Incorporated
HMX LLC	Rocky Brands, Inc.

Sandler, Travis & Rosenberg, P.A.
Scent-Lok Technologies
Sears Holdings
Shanghai Shenda (America)
Smart Apparel U.S.
Star Ride Kids, Inc.
Target
TellaS Ltd
Ann Taylor Stores Corporation
Tommy Hilfiger USA, Inc.
Trade Best Practices
UnderArmour
Val D'or Apparel LLC.
VF Corporation
Walmart Stores
Warnaco, Inc.
White Sierra
Wine & Spirits Wholesalers of America,
Inc.
Wolverine Worldwide, Inc.

Associations

The Alliance of Automobile
Manufacturers
American Apparel & Footwear
Association (AAFA)
American Association of Exporters and
Importers (AAEI)
American Automotive Policy Council
(AAPC)
American Import Shippers Association
American Institute for International Steel
(AIIS)
Cheese Importers Association of America
Coalition of New England Companies for
Trade (“CONNECT”)
Coalition for Safe and Affordable
Childrenswear
Columbia River Customs Brokers and
Forwarders Assn.
Consuming Industries Trade Action
Coalition (CITAC)
Customs Brokers & Int’l Freight
Forwarders Assn. of Washington State

Customs Brokers and Forwarders
Association of Northern California
(CBFANC)
Distilled Spirits Council of the United
States
Emergency Committee for American
Trade (ECAT)
Express Association of America
Fashion Accessories Shippers Association
(FASA)
Footwear Distributors and Retailers of
America (FDRA)
Hong Kong American Chamber of
Commerce, Apparel and Footwear
Committee
INDA, Association of the Nonwoven
Fabrics Industry
Los Angeles Customs Brokers and Freight
Forwarders Assoc.
National Association of Manufacturers
The National Customs Broker and
Forwarders Association of America
(NCBFAA)
National Retail Federation (NRF)
Outdoor Industry Association
Pacific Coast Council of Customs Brokers
& Freight Forwarders Assns
Retail Industry Leaders Association
(RILA)
San Diego District Customs Brokers Assn.
SnowSports Industries America
Sporting Goods Manufacturers
Association (SGMA)
Toy Industry Association
Travel Goods Association (TGA)
United States Association of Importers of
Textiles and Apparel (USA-ITA)
United States Council for International
Business
U.S. Business Alliance for Customs
Modernization (BACM)
U.S. Chamber of Commerce