



October 26, 2012

The Honorable David V. Aguilar  
Acting Commissioner  
U.S. Customs and Border Protection  
1300 Pennsylvania Avenue  
Washington, D.C. 20229

**Re: Administration of Additional U.S. Note 5 to Chapter 64, HTSUS**

Dear Commissioner Aguilar:

We represent the domestic manufacturers of rubber and plastic footwear, as well as the importers of most footwear into the United States. As we approach the one-year anniversary of the implementation of the so-called "textile outsole" changes to Chapter 64 of the Harmonized Tariff Schedule System of the United States (HTSUS), we are writing to urge you to eliminate the immense uncertainty hanging over the industry by publishing as soon as possible U.S. Customs and Border Protection's ("CBP") final guidance regarding the administration of Additional Note 5 to Chapter 64 of the HTSUS.

As you know, the inclusion of Additional U.S. Note 5 into Chapter 64 of the HTSUS occurred almost a year ago, December 3, 2011, 30 days after the November 3, 2011 publication in the *Federal Register* of a Proclamation by President Barack Obama.

CBP requested comments on Additional U.S. Note 5 to Chapter 64 on January 23, 2012. On May 1, 2012, almost 6 months after Additional U.S. Note 5 went into effect, we urged CBP to expedite publication of final guidance. On June 21, 2012, CBP responded, stating that, "...we intend to issue guidance to the industry as soon as practicable on how CBP intends to proceed."

However, we are now at almost 11 months after the inclusion of Additional U.S. Note 5 to Chapter 64 and the industry has still not received any guidance from CBP. In the interim, CBP has refused to rule on countless classification requests regarding Additional U.S. Note 5. The delay is puzzling since we understand that CBP was responsible for the original drafting Additional U.S. Note 5.

The net result is an industry in a state of flux regarding what has constituted a significant part of the trade. Because guidance has not yet been issued by CBP, we are concerned that there is little or no consistency in the way that importers are classifying the goods subject to Note 5, or in the way that CBP officials are reviewing and classifying the imported items for tariff purposes. This causes both potential liabilities of unknown amounts to importers, as well as confusion to both importers and domestic producers regarding the appropriate approach.

Therefore, we send this letter together to respectfully request that the CBP issue its final guidance as soon as possible. CBP's East Coast Trade Symposium, scheduled for next week (October 29-30) in Washington, DC, will bring together a critical mass of the footwear trade. As such, the Symposium offers an excellent opportunity to announce the final guidance.

The Honorable David V. Aguilar  
October 26, 2012  
Page Two

We understand and appreciate that CBP must use caution and be confident of the conclusions that it reaches in the guidance. However, the ongoing delay is causing serious concerns to both importers and domestic companies which both produce and sell the footwear at issue. Again, we urge CBP to issue final guidance as quickly as possible.

Thank you very much for your consideration.

Sincerely,



Kevin M. Burke  
President & CEO  
American Apparel &  
Footwear Association (AAFA)



Matt Priest  
President  
Footwear Distributors and  
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