

February 11, 2008

The Hon. Michael Chertoff
Secretary of Homeland Security
Department of Homeland Security
Washington, DC 20528

Dear Secretary Chertoff:

The undersigned companies and associations strongly object to a recent proposal by U.S. Customs and Border Protection (CBP) that ignores significant judicial precedent, suddenly seeks to overturn almost two decades of agency practice, and, if allowed to be implemented, would amount to a hidden tax on U.S. consumers.

In a January 24 Federal Register notice, CBP proposed a new interpretation that will dramatically alter the way in which the transaction value of imported articles is calculated. This revised interpretation would overturn the so-called “first sale” rule, resulting in the assessment of significantly higher duties on U.S. imports, leading to higher prices for U.S. consumers.

In justifying this action, CBP is relying upon a non-binding commentary issued by the Brussels-based World Customs Organization’s (WCO) Technical Committee on Customs Valuation to toss out 20 years of legal precedent and Administrative practice that have been consistently reaffirmed by U.S. courts and by CBP itself.

This proposal is not only flawed and highly objectionable, but also is particularly disturbing with regard to the timing, process and manner that CBP employed to publish its position. The Administration and Congress have just completed work on an economic stimulus package that will promote more consumer spending, yet CBP is proposing a move that would undercut essential goals of that package. Moreover, while government and business have collaborated as partners to protect our ports and boost our economy, the decision to put forward such a significant change in practice without consultation with the U.S. trade community presents a disturbing message with respect to that essential partnership. That such a change has been proposed, and would take effect, without any Congressional approval or oversight only exacerbates this situation.

Mr. Secretary, for these reasons, we urge that this proposal be immediately withdrawn.

Sincerely,

Abercrombie & Fitch Co.
AeA - American Electronics Association
American & Efirm, Inc.
American Apparel & Footwear Association (AAFA)
American Association of Exporters & Importers
(AAEI)

American Institute for International Steel
American Petroleum Institute (API)
AN Deringer
Anchor Blue Retail Group
Ariela-Alpha International L.L.C.
Best Buy Co., Inc.

Biflex
 Boscov's Department Stores, LLC
 Carole Hochman Design Group
 Charming Shoppes Inc.
 Cheese Importers Association of America
 Chico's FAS, Inc.
 Christian Dior Couture
 Chrysler LLC
 Coalition of New England Companies for Trade
 ("CONNECT")
 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).
 David's Bridal, Inc.
 Emergency Committee for American Trade (ECAT)
 Ex Officio
 Footwear Distributors and Retailers of America
 Gemini Shippers Association
 Global Logistic Solutions, LLC
 Goldtoe Moretz
 Hampshire Group Limited
 Hanesbrands, Inc.
 HANRO USA
 Hastings Entertainment, Inc.
 The Home Depot
 International Promotions Leadership
 JCPenney
 Jockey International, Inc.
 Joint Industry Group
 Jones Apparel Group
 Kellwood Company
 Landau Uniform
 Lands' End
 Leading Lady, Inc.
 Levi Strauss & Co.
 Liberty International, Inc.
 Liz Claiborne Inc.
 Los Angeles Customs Brokers and Freight
 Forwarders Association (LACBFFA)
 Lovable World Trading Co., Inc.
 Macy's, Inc.
 Marker Ski Wear
 Marmot
 Mattel, Inc.
 Meyer Corporation, U.S
 Michael's Stores, Inc.
 Mountain Khakis
 Mountain Sprouts
 National Association of Manufacturers
 National Council on International Trade
 Development (NCITD)
 National Retail Federation
 The Neiman Marcus Group, Inc.
 Neville Peterson LLP
 Nike, Inc.
 Outdoor Industry Association
 Pacific Coast Council of Customs Brokers & Freight
 Forwarders
 Perry Ellis International
 Phillips-Van Heusen Corporation
 prAna
 Retail Industry Leaders Association
 Roanoke Trade Services, Inc.
 Rocky Brands
 Rode & Qualey
 Russell-Newman
 San Diego District Customs Brokers Assn.
 Sandler, Travis, and Rosenberg P.A.
 Scent-Lok Technologies
 Sojitz Corporation of America
 Speed Sourcing, Inc.
 Sporting Goods Manufacturers Association
 Target Corporation
 TellaS Ltd.
 TLR - Total Logistics Resource, Inc
 Travel Goods Association
 Triumph Apparel
 Toy Industry Association (TIA)
 U.S. Association of Importers of Textiles and Apparel
 (USA-ITA)
 U.S. Business Alliance for Customs Modernization
 (BACM)
 U.S. Chamber of Commerce
 UnderArmour
 United States Council for International Business
 VF Corporation
 VF Outdoor, Inc.
 Volkl Technical Apparel
 W.L. Gore and Associates
 Warnaco Inc
 White Sierra
 Wolverine World Wide, Inc.

Cc: The Hon. W. Ralph Basham, Commissioner, U.S. Customs and Border Protection
 The Hon. Henry M. Paulson, Jr., U.S. Secretary of the Treasury
 The Hon. Susan C. Schwab, U.S. Trade Representative
 The Hon. Carlos M. Gutierrez, U.S. Secretary of Commerce
 The Hon. Joshua B. Bolten, Chief of Staff, The White House
 The Hon. Edward P. Lazear, Chairman, Council of Economic Advisers

The Hon. Charles B. Rangel, Chairman, House Ways and Means Committee
The Hon. Jim McCrery, Ranking Minority Member, House Ways and Means Committee
The Hon. Bennie G. Thompson, Chairman, House Homeland Security Committee
The Hon. Peter T. King, Ranking Minority Member, House Homeland Security
Committee
The Hon. Max Baucus, Chairman, Senate Finance Committee
The Hon. Chuck Grassley, Ranking Minority Members, Senate Finance Committee
The Hon. Joe Lieberman, Chairman, Senate Homeland Security and Governmental
Affairs Committee
The Hon. Susan M. Collins, Ranking Minority Member, Senate Homeland Security and
Governmental Affairs Committee