

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 Secretary, for these reasons, we urge that this proposal be immediately withdrawn.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