Client Advisory

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Interim Rules Published for CAFTA-DR

On June 13, 2008, U.S. Customs and Border Protection ("CBP") published interim rules on implementing the preferential tariff treatment and other customs-related provisions of the Central America-Dominican Republic-United States Free Trade Agreement ("CAFTA-DR") in the Federal Register (Volume 73, Number 115). The CBP also requested comments on these interim rules which must be received by August 12, 2008.

BACKGROUND TO CAFTA-DR

The CAFTA-DR was signed in 2004 by the United States, the Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua. Costa Rica signed on to the CAFTA-DR in 2007.

The United States adopted the provisions of the CAFTA-DR on August 2, 2005 when the Central America-Dominican Republic-United States Free Trade Agreement Implementation Act (the "Implementation Act") was passed. A provision of the Implementation Act requires that regulations be issued to implement the provisions of the CAFTA-DR.

Following the adoption of the Implementation Act, President Bush signed various proclamations that implemented the provisions of the CAFTA-DR, with respect to certain signature countries, and modified the Harmonized Tariff Schedule of the United States ("HTSUS") to reflect the CAFTA-DR preferential duty rates.

Under the CAFTA-DR, more than eighty percent of U.S. exports of consumer and industrial goods became duty-free in Central America and the Dominican Republic upon its implementation, with the remaining tariffs to be phased out over a ten-year period. Duties for key U.S. export sectors including construction equipment, paper products, pharmaceuticals, and medical and scientific equipment were immediately eliminated in their entirety. Tariffs on U.S. autos and auto parts are to be phased out within five years of its implementation.

Moreover, more than half of U.S. farm exports to Central America and the Dominican Republic became duty-free immediately upon the CAFTA-DR's implementation, including high-quality cuts of beef, soybeans, cotton, and wheat, as well as many fruits and vegetables, and processed food products. Tariffs on most remaining U.S. farm products are to be phased out within fifteen years of its implementation, with all tariffs eliminated in twenty years.

Apparel made in Central America or the Dominican Republic was also made duty free if U.S. or regional fabric and yarn were used in the production process.

Overall, trade and commercial opportunities have grown under the CAFTA-DR. The total volume of trade between the United States and its current CAFTA-DR partners has increased by 17 percent since 2005; rising from $27.9 billion in 2005 to $32.6 billion in 2007.

THE INTERIM RULES

The interim rules:

- Provide that an importer may make a claim for CAFTA-DR preferential tariff treatment based on a certification by the importer, exporter, or producer, or the importer's knowledge that the good qualifies as an originating good;
- Establish procedures for claiming CAFTA-DR preferential tariff treatment at the time of entry;
- Provide guidance concerning temporary imports under bond including an exception whereby no

bond will be required for certain goods originating in a CAFTA-DR party when imported temporarily for prescribed uses;

- Provide guidance on how to correct a claim when an importer has reason to believe that a claim is based on inaccurate information;
- Set forth post-importation duty refund claim procedures;
- Provide "rules of origin" standards; and
- Address verifications to determine whether imported goods are originating goods entitled to CAFTA-DR preferential tariff treatment.

To review the rules and regulations in their entirety, visit **http://www.setonresourcecenter.com/register/2008/Jun/13/33673A.pdf**.

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