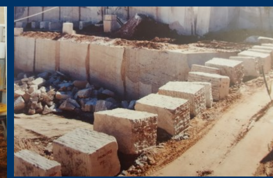
CBP Trade Enforcement Bulletin

U.S. Customs and Border Protection





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Import Safety

CBP Port Everglades' First Seizure of Violative Mattresses under the Flammable Fabric Act

In July 2016, CBP Port Everglades Trade Enforcement Team targeted a shipment of household articles arriving from Sines, Portugal, for possible intellectual property rights violations and marking issues. During the inspection of the 125 pieces, CBP discovered 50 mattresses within the shipment which were referred to the Consumer Product Safety Commission (CPSC) compliance investigator for possible CPSC violations. CPSC laboratory testing determined that the mattresses did not meet the minimum safety requirements pursuant to 16 CFR § 1633, Flammable Fabric Act. This was CBP Port Everglades' first seizure based on the Flammable Fabric Act.

Violative mattresses

This seizure was the result of CBP Port Everglades Trade Enforcement Team's close working relationship with the CPSC.

Antidumping and Countervailing Duties

CBP and ICE Seize 132 Drums of Honey

On August 12, 2016, import specialists from the Miami-based Agriculture and Prepared Products Center along with CBP officers and special agents with U.S. Immigration and Customs Enforcement's (ICE) Homeland Security Investigations (HSI) in Chicago, seized approximately 42 tons of illegally imported Chinese honey.

The honey was packaged in 132 55-gallon drums that were falsely declared as originating from Taiwan to evade antidumping duties applicable to Chinese-origin honey. This represents the third significant seizure of honey in four months. The antidumping duties on this shipment of Chinese honey would be nearly $180,299 based on the U.S. Department of Commerce rates, had CBP not intervened. The honey will be destroyed after an ongoing investigation into the full supply chain is completed.

This seizure follows a string of successful criminal prosecutions by HSI agents in Chicago of multiple U.S. importers convicted of illegally transacting in smuggled Chinese honey disguised as Taiwanese or many other false origins. These individuals were ultimately sentenced and deported.

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Antidumping and Countervailing Duties (cont.)

Evasion of Antidumping Duties of Hydrofluorocarbons

On April 7, 2016, the Pharmaceuticals, Health & Chemicals Center of Excellence and Expertise (PHC Center) received an email inquiry from a Houston area broker requesting classification and antidumping duty (ADD) advice on a shipment of hydrofluorocarbons (HFC) from China. The import specialist advised the broker of classification and confirmed applicability of ADD under an existing ADD order. The broker requested case-specific ADD information involving manufacturer/exporter combination for a specific shipment. The rate for the first case was 92.6 percent versus 210.46 percent for the second case. The specific inquiry piqued the import specialist's curiosity, prompting the import specialist to request specific information from the broker to be able to advise which case would apply. The broker refused to provide any further information on the shipment in question, further stimulating the import specialist's interest.

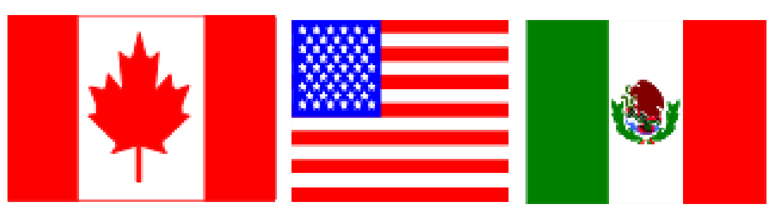
The import specialist selected five HFC entries filed in Houston from the importer for a random review. The import specialist reviewed the entry summaries and determined them to be within the scope of an ADD order, resulting in around $880,000 of undeclared ADD owed. These entries were suspended and changed to type ADD entries. The import specialist sent a Notice of Action to the importer requesting payment of ADD owed, and the importer did not respond. The importer ignored a second request for entries entered as ADD entries for review and the import specialist expanded their research to include all type additional entries of HFCs from the importer. The calculated ADD owed on these entries was estimated at $2.8 million. The import specialist reviewed certain entries entered with a specific ADD rate, and determined that there was insufficient information to substantiate the use of a specific rate.

On August 24, 2016, the U.S. Department of Commerce (DOC) issued a message excluding entries entered before February 1, 2016 from ADD. The import specialist ran a query to find all entries nationwide that could be subject to the information issued in the DOC message. The import specialist found several entries that could be eligible.

On August 30, 2016, the El Paso-based import specialist and a U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) agent from Houston visited the importer's premises in Houston. On September 15, 2016, the importer submitted a check for approximately $1.3 million. All entries filed after February 1, 2016 are currently suspended and awaiting liquidation instructions from the DOC.

The PHC Center continues to monitor importer activity and review ADD instructions issued by DOC to enforce ADD orders. Additionally, the import specialist is routinely running queries and randomly selecting entries for review from other importers entering HFCs. The People's Republic of China-wide rate for this case is currently 216.37 percent, so the potential for evasion is substantial.

Trilateral Customs: Steel Enforcement and Cooperation Dialogue



On October 12, 2016, the United States participated in the first trilateral customs steel enforcement and cooperation dialogue hosted by the Canada Border Services Agency (CBSA) in Ottawa, Canada. Officials representing CBSA, CBP, and Mexico's Servico De Administracion Tributaria spoke abut their concerns with steel imports affecting economies and steel industries throughout the North American Region. They are committed to strengthening steel enforcement throughout North America, tackling issues surrounding the tactics used to evade these duties, such as transshipment, misclassification, and undervaluation.

Opportunities for joint or parallel operations and information sharing of best practices, trends, and non-company specific instances of duty evasion, within the limits of each country's privacy laws were among the key proposals. These discussions set the stage for continued trilateral meetings and engagement to establish compliance operations essential to addressing steel enforcement across North America.

The regional customs officials also participated in the North American Steel Committee meeting held on October 13-14 and spoke about the proposed opportunities for customs trilateral enforcement and cooperation.

Intellectual Property Rights

Trade Enforcement Coordination Centers (TECC)

Officers with seized merchandise

The Trade Enforcement Coordination Centers (TECCs) were established by CBP and U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) as a comprehensive response to ongoing commercial trade violations that threaten the competitiveness of the U.S. economy and the public health and safety of U.S. consumers. The first TECC was created in Los Angeles in 2012, and the number of TECCS has since expanded to nine additional locations: New York/New Jersey, Detroit, New Orleans, Houston, Chicago, Baltimore, Buffalo, El Paso, and San Juan. These TECCs are a joint effort to ensure oversight and prioritize trade enforcement and interdiction to proactively identify, interdict, and investigate inbound cargo that may enter the United States in violation of U.S. customs and trade laws.

The development of the TECCs promotes information sharing among all entities involved in trade enforcement, assists in proactively identifying trade schemes, and fosters complete threat assessments. The TECCs further help in creating an integrated team, working side-by-side on a daily basis, and reinforces the already-established partnership. The Intellectual Property Rights (IPR) Center's Trade Enforcement Unit is working to assist HSI and CBP field offices to open additional TECCs at major ports of entry across the country.

CBP Trade Enforcement Task Force

AD/CVD Success for the CBP Trade Enforcement Task Force

This past February, Congress passed and President Obama signed into law sweeping trade enforcement legislation impacting U.S. Customs and Border Protection (CBP): the Trade Enforcement and Trade Facilitation Act of 2015 (TFTEA). Implementing TFTEA's provisions required a new approach towards combatting one of CBP's most perplexing, age-old trade enforcement issues: antidumping and countervailing duty (AD/CVD) evasion. In response, the CBP Commissioner established the CBP Trade Enforcement Task Force in May 2016 to take a fresh approach toward combatting these and other trade issues, such as forced labor.

In combatting AD/CVD evasion, the Task Force has been very successful in its initial months of operation. In the last four months, through collaboration with multiple CBP offices, the Task Force has secured the collection of over 7 million dollars in AD/CVD from a review of over 130 suspected evaders. Through investigation, CBP determined multiple companies owed CBP outstanding duties and recommended placing them on a Single Transaction Bond (STB) for all future entries. As a result, several companies made contact with CBP shortly after the enforcement actions were implemented to resolve these debts.

The Task Force focuses on lessons learned from CBP's past enforcement experience. From this research, the Task Force develops and documents a standardized approach to enforcing trade issues. The Task Force will continue to take a more strategic view of trade issues writ large and will empower the field and enhance their work through effective tactics, techniques, and procedures. The Task Force will tackle complex trade issues each quarter and pilot test the new approaches in the field before broader deployment throughout CBP.

Operation Take Nothing for Granite - IMM Center and Laboratory and Scientific Services (LSS) Work Together to Identify Granite Misclassification Scheme

The Industrial and Manufacturing Materials Center of Excellence and Expertise (IMM Center) recently reported the final results of their national revenue-based operation, Take Nothing for Granite. The idea behind the operation began with an importer visit to a quarry in Manitoba, Canada. The visit brought to light the possibility of misclassification within the granite provisions.

The operation targeted entries which contained a high probability of granite being misclassified in the listed subheadings (duty rates ranging from free to 2.8 percent). Classification within these headings depends on two factors: the degree to which the stone is worked and the geological nature of the stone. Granite that is worked beyond the point allowable in Chapter 25 of the Harmonized Tariff Schedule of the United States, or doesn't possess the geological nature of granite, is classified in heading 6802, with rates ranging from 3.7 percent duty to 6.5 percent duty. To determine the geological nature of the stone, samples were obtained from targeted shipments and sent to CBP's Laboratories and Scientific Services (LSS) for a detailed analysis. The lab analysis was an essential feature to properly classify the stone.

Entry summaries were reviewed by IMM Center import specialists at 19 ports of entry, resulting in duty collections of over $90,000.

The IMM Center will work with the Revenue National Targeting and Analysis Group (NTAG) to detect future misclassifications of granite. The Revenue NTAG specializes in creating User Defined Rules that seek out misclassifications and can help ensure compliance within the granite industry. The operation was a great first step to verify that a problem exists in the granite tariff ranges. Following up on the discrepancies will further aid in correcting noncompliant importers.

This operation was successful due to the IMM Center's targeting expertise and LSS's ability to provide a detailed geological analysis. Having multiple divisions of CBP working together in such a cohesive manner will play a key role in future successful operations. Bringing in the Revenue NTAG has also proven to be an effective enforcement approach for combating future noncompliance.

Granite blocks classified in Chapter 25

Granite blocks being cut into slabs

Granite blocks being polished