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GENERAL AGREEMENT ON TARIFFS AND TRADE

LIMITED B
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8 November 1950
ORIGINAL: ENGLISH

CONTRACTING PARTIES

CUSTOMS FORMALITIES

RULING ON TARIFF CLASSIFICATION

IN THE UNITED STATES

The United States Delegation has furnished for the information of the Contracting Parties a copy of the following Press Release relating to a Treasury decision which is intended to expedite importations into the United States :

"Secretary Snyder announced today that the Bureau of Customs has established procedures whereby foreign traders can obtain in advance of importation into the United States, formal rulings of the tariff classification of merchandise and the rate of duty to be applied.

"Frank Dow, Commissioner of Customs, said the action is one of the most important steps taken in the Bureau's continuing program of procedural improvement to meet modern trade needs. While advisory opinions have been possible under existing regulations the new provision makes it easier for the importer to be certain of how the merchandise he wishes to bring into the United States will be treated for tariff purposes, and thus what his "landed costs" will be.

"When the new provisions are utilized by the foreign trader, the possibilities of a field officer's determination being overruled by higher customs officials without notice, or of different tariff treatment of the same merchandise at different ports of entry, are eliminated.

"Foreign trade may thus be stimulated to the extent that the greater certainty in regard to customs charges makes possible freer commitments by United States importers.

"In the unusual situation in which a further study of legal requirements might indicate a revision involving higher duty on a subsequent shipment, such action would be taken only after notice has been given and representations of interested traders have been considered. Then any increase found necessary would take effect only after 30 days had elapsed from publication of a formal decision.

"The need for greater certainty in the customs classification procedure was one of the points most emphasized in discussions last year between United States officials and trade and customs representatives of a number of foreign countries.

"The new procedure operates as follows:

"Prospective importers or foreign exporters may apply in writing to the Commissioner of Customs for a ruling as to the tariff classification of an article. If they furnish all information necessary to a decision, such as specifications, component materials, chief use, etc., or if the information is otherwise available to customs authorities, a decision as to the tariff classification of the article will be made, even in advance of its importation. Where practicable, a representative sample should be submitted with the application.

"If the decision appears to be of sufficient importance to the import trade, it will be published in the weekly Treasury Decisions, and will become a "uniform and established practice", not subject to administrative change to a higher rate without the formal notice and the 30 day waiting period. The waiting period for effecting a change will not apply where higher duties come about through changes in law or judicial decisions.

(T. D. 52588)

TARIFF CLASSIFICATION OF PROSPECTIVE
IMPORTS - CUSTOMS REGULATIONS AMENDED

Customs Regulations of 1943 amended by adding new section to provide a procedure for obtaining decisions on tariff classification in advance of importation in commercial quantities and to insure published notice before such decisions may be changed to impose higher duties.

TREASURY DEPARTMENT
OFFICE OF THE COMMISSIONER OF CUSTOMS
WASHINGTON, D. C.

TO COLLECTORS OF CUSTOMS AND OTHERS CONCERNED:

TITLE 19 - CUSTOMS DUTIES

CHAPTER I -- BUREAU OF CUSTOMS

Part 16 -- LIQUIDATION OF DUTIES

"In order to reduce to a minimum such uncertainty as may exist in the minds of prospective importers and foreign exporters as to the rates of duty applicable to articles imported into the United States, it is desired to make administrative decisions on tariff classification binding to the fullest extent possible under existing law. The Customs Regulations of 1943 are therefore being amended by adding thereto a section outlining a procedure to effect this purpose.

"Prospective importers and foreign exporters may apply in writing to the Commissioner of Customs, Washington 25, D. C., for a ruling as to the tariff classification of any article which they contemplate importing into, or exporting to, the United States. If they furnish all information necessary to a decision, or if the information is otherwise available to the customs authorities, a decision as to the tariff classification of the article will be made, even in advance of its importation.

"When it appears that a substantial volume of imports will be affected by the decision, or the decision for other reasons is of sufficient importance, it will be published in the weekly Treasury Decisions and will not be changed by any further administrative decision of the Commissioner imposing a higher rate of duty on the article except after a notice that a possible change is under consideration has been published in the Federal Register and the parties in interest have been given an opportunity to make representations to the Commissioner in support of a continuation of the prior decision. If after a consideration of the representations in the light of all controlling factors the Commissioner finds that a correct interpretation of the law makes a reversal of the prior decision necessary, the new decision will be published in the weekly Treasury Decisions. It will be effective only as to articles entered for consumption or withdrawn from warehouse for consumption on and after the expiration of 30 days after such date of publication.

"The notice procedure is applicable only in the case of administrative rulings. If a change to higher duties comes about as a result of statutory enactment judicial decision, or Presidential proclamation, the notice procedure is inapplicable.

"As a further step in introducing certainty in the field of tariff classification, the amendment provides that in any case where there has been an established and uniform practice in assessing duties on an imported

article, no higher duties will be imposed by an administrative ruling of the Commissioner until after a notice of the possibility of such a ruling has been published in the Federal Register and the parties in interest given an opportunity to submit written arguments against the action under consideration. If a ruling imposing the higher duties is issued, it will, of course, not be effective until after the expiration of the 30-day period previously referred to.

"In view of the foregoing, Part 16 of the Customs Regulations of 1943 (19 CFR Part 16), is hereby amended by adding a new section 16.10a, reading as follows:

"16.10a Tariff classification of prospective imports.-

"(a) Any prospective importer or foreign exporters may apply in writing to the Commissioner of Customs, Washington 25, D. C., for a ruling as to the tariff classification of any article which he intends to import into or ship to the United States in commercial quantities. The application shall contain a full description of each article. The application shall also give the following information, unless it is clear that it will be of no value in determining the tariff classification of the article: (1) the respective quantities and values of the component materials of which the article is composed; (2) information as to its chief use and commercial designation in the United States; and (3) any specifications, analyses, or other information deemed necessary to a tariff classification of the article. Whenever practicable, a sample of the article should be submitted with the application.

"(b) If the Commissioner is satisfied (1) that the application is made in good faith by an importer or foreign exporter who is properly and directly concerned with the tariff classification of the article described; (2) that the information submitted or otherwise available is adequate for a considered decision; and (3) that the ruling applied for is not already covered by a controlling published decision, the Commissioner will rule on the tariff classification of the article. A copy of the decision will be mailed to the applicant. The decision will be published in the weekly Treasury Decisions if it will affect a substantial volume of imports or if it is for any other reason of sufficient importance to justify such publication.

"(c) Any decision published pursuant to subsection (b) shall be deemed to establish a uniform practice within the meaning of section 315, Tariff Act of 1930, as amended. The decision will not be changed by a further ruling of the Commissioner to impose higher duties on such an article unless the prior decision should prove to be clearly wrong. When it appears to the Commissioner that a correct interpretation of the law may require such a ruling, notice that the prior ruling is under review will be published in the Federal Register so that the parties in interest will have an opportunity to make such written submissions as they desire, within a period which will be specified in the notice, with respect to the correctness of the contemplated action. If after the consideration of such submissions as may be received the Commissioner issues a ruling imposing higher duties, it will be effective only as to merchandise entered for consumption or withdrawn from warehouse for consumption

on or after the expiration of 30 days after the date of publication of such ruling in the weekly Treasury Decisions. 11a

"(d) The notice procedure outlined in paragraph (c) will be applied also in any other case in which the Commissioner believes that a correct interpretation of the law may require the issuance of an administrative ruling imposing higher duties on an imported article than has been assessed under an established and uniform practice. (Secs. 502, 624, 46 Stat. 731, 759; 19 U.S.C. 1502, 1624.)

FRANK DOW
Commissioner of Customs"

"Approved : October, 27, 1950

(Signed) JOHN W. SNIDER

Secretary of the Treasury "

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The procedure outlined in paragraph (c) is not applicable to changes required by statutory enactment, judicial decision, or Presidential proclamation.