

“First Sale” Declaration Requirement Expires tomorrow, August 19 2009

The Food, Conservation and Energy Act of 2008 (commonly referred to as the “Farm Bill”) required U.S. Customs and Border Protection (CBP) to collect First Sale Declarations from importers for a one-year period beginning August 20, 2008. CBP is to report its findings to the U.S. International Trade Commission.

Summary of the First Sale Rule: The First Sale Rule is often used where import transactions involve multiple parties and multiple sales for determining which transaction value may be declared to CBP at the time of importation. For example, if a U.S. buyer orders goods from a foreign supplier, and the supplier in turn orders the goods from a manufacturer, and the manufacturer ships the goods directly to the U.S. buyer, the First Sale Rule can allow the price from the transaction between the manufacturer and the supplier—as opposed to the typically higher price between the supplier and the U.S. buyer—to be declared to CBP at the time of entry so long as certain requirements are satisfied. A well-known 1992 U.S. court case applying the First Sale Rule was *Nissho Iwai America Corp. v. United States*. Additional details regarding the First Sale Rule and the Farm Bill First Sale Declaration requirement can be found in our January 31 and July 1, 2008 *NGJ International Trade Updates* at <http://www.ngjensen.com/itu.php>.

Actions: Importers may discontinue providing NGJ with “First Sale” declarations on their Customs’ invoices effective with goods entered as of August 20, 2009. Our ***NGJ Express*** web-based software will be modified to remove the First Sale declaration feature at the same time.

If you have questions regarding this issue, please contact us at compliance.us@ngjensen.com.

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