



NEWS IN BRIEF

FMC Commissioner Will Become the Port of Long Beach Executive Director

Federal Maritime Commission (FMC) Commissioner Mario Cordero has announced that he will depart the FMC next month to accept the position of Executive Director of the Port of Long Beach. The Long Beach Board of Harbor Commissioners voted to hire Cordero to run the port. Cordero's last day at the FMC will be May 12, after which he will begin his duties at the Port of Long Beach on May 15.

As the Executive Director of the Port of Long Beach Cordero will be responsible for daily leadership of the Nation's second busiest container port (when considered in combination with the neighboring Port of Los Angeles, the two complexes form the largest gateway moving cargo for international commerce entering and leaving the United States).

Duty-free Treatment for Returned Foreign Goods under 9801.00 Do Not Apply to ADD/CVD

Last year the Trade Facilitation and Trade Enforcement Act (TFTEA, also commonly referred to as the Customs Reauthorization Bill) included a very important change in the Harmonized Tariff Schedule (HTS), dealing with goods returned to the United States. HTS 9801.0010 had always been only for products made in the United States, it did not include articles that were previously imported, with duties paid, that were exported and then returned. Specifically, the Customs regulations under 19 CFR141.2 state that:

"Dutiable merchandise imported and afterwards exported, even though duty thereon may have been paid on the first importation, is liable for duty on every subsequent importation into the Customs territory of the United States..."

The regulation then goes on to list the exceptions to the rule. The reauthorization bill added another important exemption to this regulation. The bill changed the language to "Products of the United States when returned after having been exported **or any other products when returned within 3 years after having been exported**, without having been advanced in value or improved in condition by any process of manufacture or other means while abroad". This went into effect in May of last year.

Since that time, questions have been raised about whether this includes antidumping duties and countervailing duties. This provision for foreign goods was added to the language that was for American goods returned. The duty rate of free in column 1 of the tariff applies. Nothing in the language of TFTEA included any specific language for other provisions and requirements that apply to the goods. Antidumping and countervailing duties are other provision of import law.

The change is best explained in binding ruling H033175 from 2009 that can be found on Customs and Border Protection's website at: <https://rulings.cbp.gov/index.asp?ru=h033175&qu=H033175&vw=detail>.

CBP Issues FTA Side-By-Side Comparison of Free Trade Agreements and Preferential Trade Legislation Programs

U.S. Customs and Border Protection has issued an update to its trade agreements side-by-side comparison. It covers 18 Free Trade Agreements and Preferential Trade Legislation Programs the shows the similarities and differences between the different programs. It compares 25 different provision for the agreements that include explanations for direct shipment requirements, MPF exemptions, compliance responsibilities, post entry claims and the varying requirements for documentation at the time of claim.

This helpful document can be found at: <https://www.cbp.gov/document/forms/side-side-comparison-free-trade-agreements-and-selected-preferential-trade>.

By **Todd Boice**, President