

# Latin American Blog

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## [First Sale Rule Survives in the United States](#)

By [Curt Dombek](#)

U.S. importers and their suppliers breathed a collective sigh of relief this month after U.S. Customs and Border Protection announced that it was not going forward with its planned rule change that would have essentially eliminated the "first sale" rule.

A great deal was at stake in this decision for companies exporting to and distributing in the United States. The rule has allowed companies sourcing goods from third countries for resale to U.S. purchasers to use their arms-length price paid to the third-country manufacturer as the basis for Customs valuation for import of the goods into the United States as long as the goods were purchased from that manufacturer for "exportation to the United States."

The rule allows Latin American distributors and traders who source products for export to the United States to benefit significantly when they arrange drop shipments from third countries such as China to their U.S. customers or distribution centers.

When a transaction qualifies under the rule, the U.S. Customs duty is assessed on the price paid to the third country manufacturer instead of the resale price to the U.S. purchaser. The duty savings can be substantial, especially on products subject to high rates of duty. Apparel importers and retailers would have been especially hard hit if the rule had changed.

Latin American companies should reexamine their supply chain and distribution models to be sure that their sales from third countries into the United States are structured to minimize import costs. The "first sale" rule is here to stay, so companies should not overlook the potential for significant cost savings that the rule can provide.

If you have questions about how this rule might benefit your company or whether your transactions may qualify, the international trade team at Sheppard Mullin can assist you.

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