

[BY PERMISSION OF THE CHAIRMAN:]

OF COUNSEL TO:

LINDSAY, HART, NEIL & WEIGLER, LLP

Attorneys At Law

1201 Pennsylvania Avenue, N.W.

Suite 315

Washington, D.C. 20004

Tel: (202) 783-3333

Fax: (202) 783-4422

Kathryn L. Beaubien

KBeaubien@aol.com

Portland Office: (503) 226-7677

Written Comments of JB Johnson's Foods

before

House Ways & Means Committee

Subcommittee on Trade

June 7, 2002

On behalf of JB Johnson's Foods, I am writing in support of H.R. 4166, introduced by Congressman Larsen of Washington State.

Background

We are a Canadian exporter located in Vancouver, British Columbia, and have been exporting peanuts to the United States for 15 years through the same highly respected customs broker located in Blaine, Washington. Imported blanched peanuts are subject to tariff/quota which is established on a calendar year basis by the Department of Commerce. As long as the commodity enters the U.S. before the tariff/quota fills up, the product may enter free of duty. As the duty on product which exceeds the tariff/quota is 143%, including JB Johnson's would never knowingly import this product once the tariff/quota has been met.

As in the past 15 years, JB Johnson's relied upon its US customs broker to monitor the "quota" desk in Washington, D.C. to ensure that there was still quota available, so as to qualify for duty-free entry. In 15 years of importing into the United States, we have never had any problem entering product under the existing quota – even during the busy holiday season.

In this particular instance the shipments of peanuts began crossing the border during the second week of December 1997 and continued right up until the very end of the year. Unfortunately, inexperienced staff at the customs brokerage was unaware that this was quota merchandise, and simply held onto the customs entries and bundled them together for filing at the end of the year. We understand that this is customary procedure for non-quota merchandise. Thus, the broker submitted the electronic entries at the very end of the year (1997).

While the product actually entered the U.S. in 1997 (while quota was still available), because of the New Year holiday, the entries were not processed by Customs until the first week of January, 1998. By then, 1997 quota had filled, and J.B. Johnson's was faced with 143% import duties. As the product had already been sold, we were unable to recall the imports and simply enter them on January 1 – when quota would be available once again. The end result was that our company suddenly owed \$300,000 in customs duties on a product which should have entered duty-free.

H.R. 4166 would retroactively exempt these 1997 shipments from the 143% import duties. We believe this is an equitable resolution for the following reasons:

- 1) It is undisputed that all shipments crossed the border in 1997.
2. All of the shipments for which we seek re-liquidation would have qualified for duty-free entry if they had been timely filed (quota on this category remained open right up until the end of the year).

Conclusion

We strongly support H.R. 4166 and urge the Committee to include this bill in the 2002 miscellaneous trade package.

Kathy Beaubien
Lindsay Hart Neil & Weigler LLP
1201 Pennsylvania Avenue, NW
Suite 315
Washington, D.C. 20004
tel: 202-783-0303
fax: 202-783-4422
KBeaubien@aol.com