Supreme Court rules in Haggar case, upholds due deference for Customs rules

On April 21, the Supreme Court handed down its decision in the case of United States vs. Haggar Apparel Co. While the controversy focused on whether certain garments imported from Mexico were eligible for a partial duty exemption under subheading 9802.00.80, Harmonized Tariff Schedule of the United States (formerly Item 807.00, Tariff Schedule of the United States), the underlying issue, having far more sweeping implications, was the degree of deference that the courts must accord Customs' interpretations of its regulations.

A hot issue:
Oven-baked jeans

Haggar Apparel Co. designs, manufactures and markets wearing apparel. The company shipped U.S. origin fabric, cut and treated with a chemical resin in the United States, as well as thread, buttons and zippers, to Mexico for assembly into trousers.

Once the goods were sewn and pressed, they were baked in an oven for approximately 12 to 15 minutes before being tagged and shipped back to the United States.

The heat activated certain proper ties in the chemically treated fabric, which imparted a permapressed quality to the trousers. (Permapressing is a technique used to prevent creases or wrinkles that detract from a garment's aesthetic appeal.)

Haggar entered the merchandise under the preferential tariff provision(s) described above.

Under this program, certain articles assembled abroad from U.S.-made components and returned are entitled to a partial duty allowance to account for the cost of the U.S. components, so long as the components are not "advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process.

Haggar, Customs disagree on duty

As the goods at issue were, in fact, assembled abroad from U.S.-made components, Haggar claimed that they qualified for the partial duty allowance.

However, Customs disagreed with this assertion. It determined that oven baking is akin to permapressing, which according to the Customs regulations, is not incidental to the assembly process.

Therefore, Customs concluded that the subject goods were disqualified from classification within subheading 9802.00.80, HTSUS, and ineligible for preferential treatment.

In response, Haggar filed a protest against Customs' decision. Upon Customs denial, it brought suit in the U.S. Court of International Trade (CIT).

Reversing Customs, the Court ruled that oven baking is an incidental operation; therefore, the trousers in dispute were eligible for treatment under subheading 9802.00.80, HTSUS.

More importantly, though, the CIT rejected Customs' claim that its regulations promulgated pursuant to the statute are entitled to deference under Chevron U.S.A., Inc. v. Natural Resources Defense Council Inc.

The Chevron rule requires a court to determine whether there is any ambiguity in Congress' intent on a specific matter. If such is the case, the court can accept Customs' interpretation (even if the court would have arrived at a different result), on the condition that the agency's interpretation is reasonable.

The CIT noted that the court's obligation to find the correct result limits its ability to give special deference to Customs. Customs unsuccessfully attempted to overturn the holding of the CIT on appeal, but was rebuffed when the Court of Appeals for the Federal Circuit (CAFC) affirmed the lower court. The CAFC held that Customs' claim of entitlement for Chevron deference was "without merit."

Trade community at odds with Customs

These decisions set the stage for a judicial confrontation between Customs and the trade community as to how much deference the courts must give Customs' interpretations of its regulations promulgated pursuant to statute.

In its ruling, the Court held that: Customs determinations are entitled to judicial deference; such deference can be given without impairing the court's authority to make findings of fact, while applying those findings to the law de novo; and Chevron deference is not inconsistent with traditional practice in Customs cases.

However, the Supreme Court failed to answer the substantive question of whether Haggar's oven-baked trousers qualify for the partial duty allowance under subheading 9802.00.80, HTSUS.

Instead, it remanded this question back to the CAFC for further review.

Unfortunately for Haggar, after many years of navigating through the administrative and judicial system for an answer, it will have to wait once again for a resolution of the substantive legal issue.

The international trade community will be most attentive to the extent which Customs will be given this Chevron deference by the courts in the future.

Further, the manner in which Customs promulgates its regulations will likely receive greater scrutiny, since faulty promulgation (e.g., not adhering to statutory precepts of notice and comment) can undermine the ability of Customs to have its interpretations thereof upheld.