

# BRIEFINGS

## AD/CVD

In a very clever move, Senator Robert Byrd (D-WV) included in the Agriculture Appropriations Bill Conference Report a provision distributing annually AD/CVD duties collected by Customs to domestic company petitioners. H.R. 4461 passed the House by a wide margin and the Administration has indicated it would sign the bill. It will be voted on in the Senate this week and will face severe WTO challenges. The legislation opens up a new area of significant private enterprise. [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_cong\\_bills&docid=f:h4461eas.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_bills&docid=f:h4461eas.txt.pdf)

## CHINA PNTR

Legislation granting permanent normal trade relations to China was passed by the Senate and signed by President Clinton. The law will take effect when China formally enters the WTO, an uncertain date based upon continuing difficulties with the Geneva negotiations.

## TRADE SYMPOSIUM

Customs will be holding its first Commissioner's Trade Symposium on November 30, 2000, in Washington D.C. The focus of the symposium will be Customs' current activities and future plans. Information on registration, admission fee payment, and symposium details will be posted on the Customs web site, [www.customs.gov](http://www.customs.gov).

## VIOLATIONS PUBLICIZED

In a significant departure from past practice and without notice, Customs has posted to its web site a list of companies that paid penalties under 19 USC 1592 in the first six months of 2000. The list will be updated semiannually. The posted list includes over 300 importers who were assessed penalties of \$22.1 million, of which \$13.4 million were collected. Access "[What's New](#)" on our website.

## WEB SITES

Customs issued a ruling that held fees paid by buyers and sellers of textile and apparel articles to a company with a Web site posting service for offers to buy and sell were not dutiable. Customs held the payments were not bona fide selling commissions as no agency relationship existed between the parties. The ruling noted the payment would be dutiable if the value of the payment to the Web site company was included in the price charged by the seller to the buyer. [HQ 547596](#) (Jul. 13, 2000).

## TRADE BILL

The Senate consideration of the [Miscellaneous Trade and Technical Corrections Act of 2000](#) (H.R. 4868) has been delayed because several Senators have placed "holds" on the bill. The political considerations may or may not be resolved to finalize it this year.

## AGOA/CBTPA

- On October 4, 2000, two Presidential Proclamations were published in the *Federal Register* designating 34 countries as beneficiaries under the African Growth and Opportunity Act (AGOA) and 24 countries as beneficiaries under the Caribbean Basin Trade Preferences Act (CBTPA).
- On October 5<sup>th</sup>, Customs published interim rules to implement certain provisions of the AGOA and CBTPA. The interim rules went into effect retroactively on October 1, 2000. Comments on the rules are due December 4, 2000. Senator Helms has placed a hold on FSC legislation to force Senate leaders to have Customs interpret ambiguities to protect the U.S. apparel industry. AGOA [Proclamation 7350](#) - 65 Fed. Reg. 59321 (Oct. 4, 2000); CBTPA [Proclamation 7351](#) - 65 Fed. Reg. 59329 (Oct. 4, 2000); AGOA Interim Rules - [65 Fed. Reg. 59668](#) (Oct. 5, 2000); CBTPA Interim Rules - [65 Fed. Reg. 59650](#) (Oct. 5, 2000).

## REVISED SED

Revisions to the Shipper's Export Declaration (SED) (Form 7525-V) have been posted to the Census website. Paper SED's may be used during a 6-month grace period. Effective Oct. 10 paper filers must enter the name of the U.S. principal part in interest in the "exporter" block. [www.census.gov](http://www.census.gov).

## OIL AD/CVD

The Court of International Trade (CIT) has revived an antidumping/countervailing duty petition filed by independent domestic oil producers against, Saudi Arabia, Mexico, Venezuela, and Iraq. The Department of Commerce originally rejected the petition on the procedural grounds that it did not have the requisite support of United States industry. The Court of International Trade ruled that the agency improperly dismissed the petition by incorrectly defining the interested United States industry and remanded the petition to the agency for reconsideration. *Save Domestic Oil, Inc. v. U.S.*, CIT [Slip Op. 00-120](#) (Sept. 19, 2000).

## INTEREST ON REFUNDS

In a highly technical decision, the Court of International Trade has ruled that pursuant to 19 USC 1505, Customs must pay interest on deposit figures calculated by Customs at \$8 million for several hundred entries and not on the \$18,180 attributed to nine original entries. The CIT found that a contract Customs had signed with the importer to settle protests relating to classification of all the merchandise contained an agreement to refund \$8 million in Customs duties and settle all protests. *Dal-Tile Corp. v. U.S.*, CIT [Slip Op. 00-115](#) (Sept. 1, 2000).

## NONCOMPLIANCE

Customs has issued informed compliance letters to 383 importers for misclassifying certain machines and mechanical appliances. The machines are "other types of machines for processing semiconductor materials" (8479.89.8500), which are duty free; and "other types of machines and mechanical appliances" (8479.89.9797), which have a duty rate of 2.5%. CEGB, [T-ABI23.TXT](#) (Sept. 21, 2000).

## HMF APPEAL

The US has appealed to the Supreme Court the CAFC's decision to allow exporters to recoup HMF payments made since the HMF inception in 1987. The Supreme Court is expected to decide whether or not to hear the case within the next six months. [Swisher International Inc. v. U.S.](#) CAFC 99-1277 (Feb. 28, 2000).

## SEDs

The Census Bureau has posted two Foreign-Trade Statistics Regulations (FTSR) letters to its website. Exports to the Panama Canal as of January 1, 2000, except to U.S. government agencies, must be identified as a Panamanian export. SEDs for exports of products through Canada to third countries must identify the third country. <http://www.census.gov/foreign-trade/regulations/ftsr172.pdf>

## COMPLIANCE PUBLICATION

Customs posted a revised Compliance Publication: [Fibers and Yarns Construction and Classification Under the HTSUS](#). Access "What's New" on our website.

## SUBSTITUTION DRAWBACK

The Court of International Trade has ruled in *DuPont v. U.S.* that its import of titanium raw materials for the manufacture of subsequently exported titanium dioxide pigment qualified for manufacturing substitution duty drawback under 19 USC 1313(b). Customs had argued that titanium was never isolated during the manufacturing process, but the CIT held that DuPont could and had established that the titanium was of the "same kind and quality." The case reaffirms the principle that "same kind and quality" determinations are not dependent on tariff classification. CIT [Slip Op. 00-122](#) (Sept. 20, 2000).

## WORLD TRADE

According to World Trade Organization statistics, merchandise exports from developing countries in 1999 expanded by 8.5% or two times faster than the global average. Worldwide growth was driven by the unit sales of personal computers, which rose by 22% to 114 million units and the sale of semi-conductors, which increased by 18% to a new record level of \$160 billion. Increase in sales of cellular mobile phones, which reached 283 million units, represented an increase of two-thirds over 1998 sales.

## AIR CARGO MANIFEST

Customs announced its plan to conduct a prototype test program under the National Customs Automation Program that will permit qualified air carriers to submit electronic air cargo manifest information to Customs prior to arrival of the aircraft in the U.S., eliminating the requirement that a Customs Form 7509 (Air Cargo Manifest) be submitted upon arrival. The test will commence no sooner than January 2, 2001. [65 Fed. Reg. 58840](#) (Oct. 2, 2000).

## FSC

The FSC replacement legislation (H.R. 4986) has undergone modifications and compromises to secure WTO consent. Expect final action soon. [http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106\\_cong\\_bills&docid=f:h4986rs.txt.pdf](http://frwebgate.access.gpo.gov/cgi-bin/getdoc.cgi?dbname=106_cong_bills&docid=f:h4986rs.txt.pdf)

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/99		
	APPROVED	PENDING
ZONES	237	8
SUBZONES	437	33
MISCELLANEOUS		35
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	10	
SUBZONES	10	



