

BRIEFINGS

FTAA

USTR has issued public summaries of its negotiation positions on the various aspects of the Free Trade Agreement of the Americas. Summaries are available for government procurement; agricultural; competition policy; dispute settlement; intellectual property; investment; market access (including tariff negotiations); services; AD/CVD; environment and labor. Access "[What's New](#)" on our website. The Bush Administration has the FTAA at the top of its trade agenda. NAFTA Article 303 (Duty Deferral) must be eliminated; it would be a major FTZ advantage.

ERP III

Customs and industry representatives continue to meet. The current draft of the ERP can be accessed on "[What's New](#)" on our website. Do not expect quick final action.

MADE IN U.S.A.

The FTC recently charged and settled a complaint against a power tool accessory manufacturer that claimed its products were "Made in U.S.A. with Domestic and Global Components". The products were actually made with significant foreign components and this violated the "all or virtually all" standard that is required to comply with FTC standards. www.ftc.gov/opa/2001/02/jore-musa.htm

FTZ FORMS

Customs has updated the form's date on several Customs FTZ admission (CF 214, 214A, 214B and 214C) and activity permit (CF 216) forms. Access "[What's New](#)" on our website.

BOND AMOUNT INCREASES

The United States Customs Service is reexamining the current bond amounts. Expect significant changes. Customs circulated and then withdrew a draft Customs Directive that would have revised the amount of the Importer's and Foreign Trade Zone Operator's bonds. The formula proposed was \$100,000 or 2% of the total value of merchandise entered the previous 12 months; TIBs would have been set at 2 times the total entered value of the merchandise; and for accelerated duty drawback refunds, the bond proposed must have equaled 100% of the anticipated drawback amount for 1 year. A copy of the draft is available from the firm.

RECONCILIATION

Customs has modified the Automated Commercial System Reconciliation test. The modifications include: reducing the data required for "no-change" Aggregate Reconciliation entries; a fee for requesting reports of flagged entries; a modification of the liquidated damages provision; and a new disk labeling procedure. [66 Fed. Reg. 14619](#) (Mar. 13, 2001)

HMT

- The CAFC handed down its decision on [BMW v. United States](#), Appeal No. 00-1135. The Court ruled that the statutory prohibition against the assessment and collection of customs duties and excise taxes on foreign goods admitted to foreign-trade zones and subzones did not apply to the HMT. An appeal is being considered. [BMW Manufacturing Corporation v. U.S.](#), [00-1135](#) (Mar. 5, 2001)
- The Supreme Court will not hear [IBM v. U.S.](#), that exporters are entitled to interest on [U.S. Shoe](#) refunds of the HMF on waterborne exports. This makes it unlikely for exporters to obtain interest on [U.S. Shoe](#) refunds.
- The CIT has issued its Claims Resolution Plan for refund of HMTs paid on exports under the [Swisher Int'l v. U.S.](#) The [Swisher](#) refunds expand on what was recovered by exporters under the [U.S. Shoe](#) HMT refund procedures by allowing refunds for HMT paid on exports back to the initiation of the HMT. CIT [Slip Op. 01-20](#) (Mar. 13, 2001). Contact Sean Murray with any questions.

BROKER EXAMS

The next Customs broker examination will be held on April 2, 2001. All individuals sitting for the exam must be registered at this time. Previous year's exams are available at "[What's New](#)" on our website.

EU DUTY ELIMINATION

The EU announced that as of March 5, duties have been eliminated on all imports of products in Chapters 1-97 of the Common Customs Tariff, excluding sugar, rice, bananas, and munitions (Chapter 93), originating in 48 least-developed countries (LDCs). Sugar, rice and bananas will be subject to phase-in elimination. A list of the LDCs eligible is available at ["What's New"](#) on our website.

SED FILINGS

Beginning April 1, 2001, the only two ways to file export documentation for exports on conveyances is through the revised paper Shipper's Export Declaration (SED, Form 7525-V) or the Automated Export System (AES). The old paper SEDs should not be used and are not to be accepted by Customs. Access ["What's New"](#) on our website.

HTSUS CHANGES

The ITC has posted to its web site a preliminary report (ITC Inv. No. 1205-5) on proposed modifications to the HTSUS. These changes are mainly technical in nature (duty neutral) and have been recommended by the World Customs Organization (WCO). However, clients are encouraged to review the report since the proposal makes changes to a very wide variety of provisions and interpretive guides. The modifications are intended to be implemented on January 1, 2002. Comments are due March 23, 2001. <http://www.usitc.gov/wais/reports/arc/w3295.htm>

DUTY ALLOWANCE

The CAFC recently held that an importer can claim a duty allowance without having to tie defective merchandise to specific entries. Fabil Manufacturing Co. v U.S., Slip Op. [99-1566](#) (Jan. 23, 2001).

CUSTOMS DEFERENCE

In 1999, the Customs Service won a major victory when the Supreme Court ruled in Haggar Apparel Co. v. U.S. that it is entitled to deference from the courts when the issue is an interpretation of the Customs Regulations. However, in entering judgment in Levi Strauss, the CIT judge pointedly noted the dangers of deferring to Customs when it has the ability to both interpret and enforce the law. See CIT Slip Op. 01-25 (Mar. 5, 2001). The potential scope of the deference is being considered by the Supreme Court when it rules in the Mead v. U.S. case, which involves the amount of deference owed Customs administrative ruling letters.

FOREIGN CUSTOMS INFO

The web site of the International Trade Administration's Trade Information Center contains helpful information and links to the tariff schedules and customs procedures of other nations. Check out the "Tariff and Tax Information" link on the ITA's web site. www.ita.doc.gov/tic.

RECONCILIATION SUMMARIES

Reports of entry summaries that have been flagged for reconciliation will now be provided on a fee-for-service basis by adding the information to two existing fee-based reports, the master file extract report and the liquidation extract report. Both of these reports can be ordered from the Customs Accounting Service Division in Indianapolis, IN. [ADM 01-0255](#) (Mar. 1, 2001).

INSPECTION CHARGES

Customs has proposed to increase its reimbursable inspection charges from 137% of a Customs employee's hourly rate to 158%. Comments are due on Apr. 2, 2001. [66 Fed. Reg. 8554](#) (Feb. 1, 2001).

HTS EXPLANATORY NOTES

The WCO has issued a supplement to the HTS Explanatory Notes (EN). The amended portions cover Ens on HTS 1901; 1905; 2206; 2309; 3808; 7321; 8443; 8471; 8512; and 9017. Access ["What's New"](#) on our website.

FMD

The USDA has temporarily banned the import of most animal and animal products from all EU countries. A ban already existed on products of the U.K. and Greece. This enlargement of the ban is a result of the outbreak of foot-and-mouth disease in other EU countries. USDA release [0044A.01](#) (Mar. 13, 2001).

"MORE THAN" DOCTRINE

In a case of first impression, the United States Court of Appeals for the Federal Circuit (CIT) upheld a determination that the "more than" doctrine does not apply to cases arising under the HTSUS. The applicability of other doctrines under the former TSUS are an open question. JVC Co. of America v U.S., Slip Op. [00-1028](#) (Nov. 21, 2000).

2002 BUDGET

President Bush's 2002 budget would allocate less money to Customs. Customs must also absorb an additional \$35 million for drug interdiction. Expect Senator Phillip Gram's S.92 to be the vehicle for necessary funding increases.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/01		
	APPROVED	PENDING
ZONES	239	8
SUBZONES	443	28
MISCELLANEOUS		36
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	11	
SUBZONES	11	