

# BRIEFINGS

## **MEXICAN TARIFF/TAXES**

At the end of December, 1998, Mexico made significant changes to its tax, tariff and Maquiladoras legal structure. These revenue producing changes are directly related to the significant need of Mexico to increase its revenues because its oil revenues from the state-owned oil company have decreased. Customs duties were raised 3 to 10% above current already high levels; NAFTA rates were not changed. Changes increased the amount of taxes paid by Maquiladoras. The Maquiladora laws were modified to delete some of the more significant financial savings opportunities. More changes are expected.

## **CUSTOMS' ACTION PLAN**

"Action Plan 1999" outlines actions to be implemented in their entirety by the year 2000. Key points in the 80 page document include reducing Compliance Assessment samples from 220 to 100, restructuring CMC's to assume the role previously held by Regions/Districts, reallocating Port staffing nationwide, designation of a Northern Border Coordinator, etc.

## **CONGRESSIONAL TRADE**

The potential of new trade negotiating authority in 1999 appears to be slim. No consensus has developed in Congress and labor unions and environmental groups continue to push for strong labor and environmental provisions for any new trade actions.

## **CIVIL/CRIMINAL ACTIONS**

An article in the March 15 *Journal of Commerce* quotes Stuart Seidel, Assistant Commissioner, Office of Regulations & Rulings, at a recent NCBFAA meeting as indicating that Customs will soon make an example of several big companies by publicly disclosing multi-million dollar civil/criminal penalty actions. Mr. Seidel stated "We have uncovered numerous situations where companies are just ignoring the reg." Expect these initial actions to create a snowfall effect nationwide.

## **IMPORTERS LOG**

As compliance assessments and audits abound nationwide, one area that we have found many firms do not prepare properly is a log of imported materials. Structuring a log of all imported materials to identify the Customs entry number and other relevant information to tie out easily to company transportation, invoice, inventory, and finance records provides an environment that makes the entire process of Customs assessments and audits much simpler. It also provides the basis for meaningful internal continuing review and oversight of import transactions. Clients are encouraged to prepare and maintain such logs.

## **IMPORTING/CUSTOMS INFO**

The updated (1998) version of "Importing into the United States" is now available on Customs' Web Site at <http://www.customs.ustreas.gov/imp-exp2/pubform/import>.

## **ACH CREDIT**

Customs issued Final Rule TD 99-11 to provide for payments to Customs by Automated clearinghouse (ACH) credit. Clients should carefully consider this option as it has negative financial consequences. ACH credit allows payers more control over the origination and timing of their payments, does not require the disclosure of bank account information to Customs, and expands the types of payments that may be made. However, ACH credit also means an earlier transfer of the funds to Customs (on the settlement date - 10th day) as opposed to the 12th day or after under ACH debit. [64 Fed. Reg. 7500 \(Feb. 16, 1999\)](#)

## **BANANA WAR**

On March 3, the USTR announced that Customs entry liquidation is to be withheld for \$520 million of EU products proposed for 100% Customs duty sanctions, effective March 3 and that Customs single transaction or continuous bonds must cover the potential increased duties. The list of affected merchandise, HTS numbers, and EU countries effected are on our website. Merchandise includes pecorino cheese, sweet biscuits, cashmere sweaters, candles, bath preparations, certain plastic handbags, uncoated felt paper, etc. Printed cards and certain chandeliers were deleted from the original list; merchandise from the Netherlands and Denmark were excluded. No final WTO action is expected until late March.

## AES

The Bureau of the Census and Customs issued cross referenced proposed regulations setting out criteria for AES and in particular, firms participating in Option 4 post departure data filing. ([64 Fed. Reg. 7412](#), [64 Fed. Reg. 7422](#), Feb. 12, 1999) Comments on both are due by April 13, 1999.

## NAFTA

Customs announced a shift to enforced compliance for failure to immediately provide certificates of origin and supporting documentation. Section 592 and special NAFTA penalties will be utilized.

## FTZ BOARD ACTION

As a result of oil refinery renewal applications being filed at the Foreign-Trade Zones Board, expect a significant slowing in all other Board actions. No matter how organized the Board will be on this process, the sheer volume of all oil refineries having to renew their zone status will mean a significant potential delay in normal Foreign-Trade Zones Board application processing.

## FTC/CUSTOMS MARKING

The FTC submitted comments on Customs' proposal to allow U.S. textiles/apparel processed abroad to retain U.S. origin for marking purposes, interpreting 19 CFR 12.130(c) to apply only for duty assessment and quotas instead of origin textile labeling. This is an important new beginning in FTC awareness of a tricky problem. [ftc.gov/be/v980034.htm](#)

## MONTREAL PROTOCOL

As of Mar. 4, 1999, the U.S. agreed to Montreal Protocol No. 4 which amends the Convention for the Unification of Certain Rules Relating to International Carriage by Air (Warsaw Convention). The Protocol provides for electronic air waybill (AWB) transmissions for cargo and modernizes other international cargo transport requirements.

## DRAWBACK

Customs has posted to its Web site updated information on drawback instructions for completing drawback forms and frequently asked questions about drawback. (<http://www.customs.ustreas.gov/imp-exp2/export/drawback.htm>) Drawback forms are also posted on Customs' Web site. (<http://www.customs.ustreas.gov/imp-exp2/export/dforms.htm>)

## MACHINE TOOLS

Customs South Florida Strategic Trade Center has issued informed compliance letters to 295 importers of machine tools highlighting misclassification and origin marking discrepancies. ADM 99-0120 (Mar. 3, 1999).

## BXA

The Bureau of Export Administration (BXA) issued a final rule effective March 5, 1999, which makes certain revisions and clarifications to the Commerce Control List (CCL) to better conform the CCL to the Wassenaar arrangement List of Dual-Use Items. [64 Fed. Reg. 10852](#) (Mar. 5, 1999).

## BROKER'S LICENSE

For a good example of how not to obtain a corporate customs broker's license, see [Shiepe v. U.S.](#), CIT Slip Op. 99-15 (Feb. 4, 1999). In [Shiepe](#) the CIT ruled that substantial evidence of a trail of numerous false and misleading statements and documents supported Customs' decision to revoke a license.

## PHARM/MED MRA'S

The FDA has established a public docket for the submission and review of information concerning the implementation of the Mutual Recognition Agreement (MRA) between the U.S. and EU in the areas of pharmaceutical good manufacturing practices and medical device evaluation. [www.fda.gov](#); [64 Fed. Reg. 11376](#) (Mar. 9, 1999)

## GRAY MARKET

T.D. 99-21 amends the Customs regulations effective March 26, to hold that items that bear trademarks of trademark owners in the U.S. will be stopped by Customs if the items are physically and materially different from those bearing the trademark in the U.S. Imported items with proper trademarks will be required to be labeled to notify consumers that the items are being imported without the permission of the U.S. trademark holder. The U.S. trademark owner must apply to Customs for this protection. This action is a result of the [Lever Bros. decision](#). It is expected to stop some of these imports, but does not provide the restraint that trademark owners wanted. [64 Fed. Reg. 9058](#) (Feb. 24, 1999)

## WEB SITES ON EXPORT REGULATIONS

Two webs sites are now available on Export Administration Regulations. The GPO and BXA site is free with access to the EAR database, Federal Register Notices, an EAR loose leaf subscription form, and e-mail and the BXA homepage links (<http://www.access.gpo.gov/bxa>) and is available on the firm's website links. Databases for the National Technical Information Service's website are available by subscription. Additional information on this site includes databases on Debarred Parties, Denied Persons, the Entity List, and the Specially Designated Nationals list. (<http://chaos.fedworld.gov/bxa>)

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/99		
	APPROVED	PENDING
ZONES	229	5
SUBZONES	402	28
MISCELLANEOUS		29
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	14	
SUBZONES	10	