

BRIEFINGS

FTAA DRAFT

The initial draft of the FTAA agreement was recently published. The draft text covers each of the FTAA's 9 chapters: agriculture, competition policy; government procurement; dispute settlement; intellectual property rights; market access; investments; services; subsidies and AD/CV duties. The USTR has requested public comments that are due by noon Aug. 22. [66 Fed. Reg. 36614](#) (July 12, 2001).

JAPAN-MEXICO FTA

Japan and Mexico have agreed to study the possibility of a free-trade agreement similar to the EU-Mexico FTZ.

EXPORT HMT REFUNDS

Customs has issued a final rule, effective December 31, 2001, that will impose a one-year time limit on requests for refunds of Harbor Maintenance Tax paid quarterly. Clients who have not yet requested refunds of HMT paid on exports are encouraged to contact the firm so their refund rights are not cut off by this rule. T.D. 01-46. [66 Fed. Reg. 34813](#) (July 2, 2001).

BANANA SANCTIONS LIFTED

The U.S. has lifted effective July 1, 2001, the 100% *ad valorem* duty sanctions imposed on certain EU goods since 1999 because the EU has adopted a new banana trade regime. [66 Fed. Reg. 35689](#) (July 6, 2001).

FOCUSED ASSESSMENT

Clients who have not yet begun the Compliance Assessment process appear to now face a more "friendly" and less rigorous procedures beginning in October. The details of the new approach are still being formulated. A major emphasis will be to review the company's existing internal controls for the import/export process. Clients without written, detailed internal controls should be structuring them now.

FSC

In a confidential report, a World Trade Organization dispute settlement panel has ruled that the replacement for the Foreign Sales Corporation (FSC) tax mechanism that was enacted by Congress last year continues to provide a export subsidy and therefore violates international trade rules. The report is available from the firm in hard copy only.

SINO-JAPANESE TRADE RIFT

A trade war is heating up between China and Japan as both have implemented import tariffs on certain products from the other country. Japan imposed tariffs on a number of Chinese agricultural products in April and the Chinese government reciprocated by imposing stiff tariffs on Japanese cars, mobile phones, and air conditioners.

AES

Clients are urged to require copies of electronic filings with the Census Bureau in order to exercise "reasonable care." Several clients have informed us that their service providers told them hard copy print outs of AES filings are not possible. We have confirmed with Census Bureau Headquarters that there is "PRINT" functionality.

PEA TEST

The new Post Entry Amendment (PEA) test program has received only 30-40 tracking reports for the first quarter. The lack of participation may encourage Customs to make changes or not continue the test.

NTR/MFN-CHINA/VIETNAM

The House Ways and Means Committee is supporting a Resolution that disapproves the President's decision to renew NTR/MFN for China and Vietnam. The Resolution is expected to go to the full House by the end of July. Expect a major battle.

MPF

The Senate has extended the Merchandise Processing Fee beyond September 30, 2003, in the recently passed Patients' Bill of Rights ([S. 872 Sec. 602](#)). The House version of the bill does not include any MPF provision. Clients are encouraged to oppose the extension of MPF.

CUSTOMS DEFERENCE

In a big win for importers, the Supreme Court has ruled in *U.S. v. Mead* that Customs Service rulings are only entitled to deference to the degree of their persuasiveness (i.e., *Skidmore* deference). The Court rejected the application of *Chevron* deference, which requires a court to uphold an agency decision unless it is shown to be procedurally defective, arbitrary, capricious, or contrary to a statute. Mead's Counsel was Sidney Kuflik, Esq., Of Counsel to the firm. [Slip No. 99-1434](#) (June 18, 2001).

AD/CVD

- The Byrd Amendment, approved last year, requires U.S. Customs to establish an account for duties collected from anti-dumping and countervailing duty measures and to transfer those duties to injured U.S. industries. The U.S. Customs Service recently issued proposed regulations that would implement the refund provisions of the Byrd Amendment. Comments must be received on or before July 26, 2001. [66 Fed. Reg. 33920](#) (June 26, 2001).
- Canada and Mexico have initiated WTO dispute resolution proceedings after being informed by the U.S. that they would not be excluded from the coverage of the Byrd Amendment. The European Union and eight other nations have already requested WTO consultations on the Byrd Amendment.

DRAWBACK REFORM

Industry groups are proposing changes that reform the drawback process by (1) allowing self-certification of goods for manufacturing substitution, bypassing the process of receiving approval from Customs' Office of Regulations and Rulings and (2) considering AES documentation to be adequate proof of export.

NAFTA

- The House has amended and passed the Department of Transportation FY 2002 Appropriation bill ([H.R.2299](#)) that prohibits appropriated funds from being used to process applications for Mexican motor carriers to operate beyond the U.S.-Mexico border area. An amendment included by the Senate does not outright prohibit funds for processing, but additional language ensures that the funding will be closely scrutinized. The Administration has signaled that it will veto the bill if it impedes the U.S.' NAFTA commitments.
- The USTR is seeking comments on a specific list of HTS Classifications that would be affected by a new round of NAFTA accelerated tariff elimination. Comments should be submitted immediately to nafta2001@ustr.gov for timely review. [66 Fed. Reg. 34730](#) (June 29, 2001).

2001 HTS UPDATE

The 2001 HTSUS mid-year update is now available. The update also contains changes to GSP, USTR notices terminating the banana dispute duties, and adding additional countries to the African Growth and Opportunity Act and the U.S.-Caribbean Basin Trade Partnership Act. Access "[What's New](#)" on our website.

GSP

- The Generalized System of Preferences (GSP) is set to expire on September 30. There is no word on whether Congress will once again allow the Program to expire and then retroactively renew it.
- In the meantime, President Bush has issued Proclamation No. 7454, which makes Georgia eligible for GSP trade benefits and also makes numerous specific eligibility changes for other countries. [66 Fed. Reg. 35365](#) (July 5, 2001).

EXPORT CONTROLS

- The GAO reports that State Department export licenses took 46 days to process and Commerce Department applications took 50 days. The export commodity, complexity of the application, and technical issues affected review times. Interagency review and dual-use applications significantly impacted review times. Access "[What's New](#)" on our website.
- The Department of Treasury has issued an updated list of countries that may require participation in or cooperation with an International Boycott that is prohibited by U.S. law. [66 Fed. Reg. 34733](#) (June 29, 2001).
- BXA has issued a final rule that harmonizes a list of definitions found in Part 772 of the Export Administration Regulations (EAR) with definitions found in the Wassenaar Arrangement and with those used by the EU. [66 Fed. Reg. 36909](#) (July 16, 2001).

FOREIGN ASSEMBLY

Customs has issued a revised ICP on U.S. Articles Assembled Overseas Under HTS 9802.00.80. Access "[What's New](#)" on our website.

TOBACCO IMPORTS

Customs has posted to its website a summary of modified IRS and ATF regulations for tobacco imports. The new regulations are intended to curtail imports of gray market cigarettes. Access "[What's New](#)" on our website.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/01		
	APPROVED	PENDING
ZONES	242	6
SUBZONES	451	24
MISCELLANEOUS		24
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	9	
SUBZONES	10	