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A ROGERS & BROWN NEWSLETTER

INT'L. FREIGHT FORWARDERS, FMC# 1194, CUSTOMHOUSE BROKERS, CBH# 4005, INT'L. AIR TRANSPORTATION ASSOC. IATA# 01-17027

June, 2002

Series XIV, Vol. II

Senate Approves Trade Package/GSP Renewal

Although it appears that there is still a long road ahead of us as it pertains to the President signing an omnibus trade bill, it is encouraging that the Senate has finally approved the omnibus trade package, H.R. 3009. The primary feature of the bill is the granting of Trade Promotion Authority (TPA) to the President. TPA, sometimes referred to as "fast track" authority, is the mechanism in which Congress gives up its right to amend trade agreements enabling the President to enter into agreements with trading partners without fear of amendment later. Key to many importers, retroactive extension of the Generalized System of Preferences (GSP) is also included in this package. A most important feature in GSP renewal this year is that it is to be renewed for five years instead of the normal 12-24 months time frame. GSP benefits expired in September of 2001 and importers have been paying duties on those commodities that were previously duty-free. The package also includes renewal and expansion of the Andean Trade Preferences Act to allow duty-free textile and apparel imports from the countries in the Andean region as well as authorization of Customs funding with authorization to spend \$308 million for ACE development in each of the next two fiscal years. The trade bill must now go to the House-Senate conference committee to resolve differences between the version passed by each chamber. It is guesstimated that the conferees will take most of the summer to produce a final bill, hopefully one that will be acceptable to President Bush.

Food and Drug Importers Notice

As a result of a continual awareness and tightening of possible bioterrorist attacks, the House-Senate agreed on a report that includes provisions ranging from strengthened food safety regulations to increased controls on certain biologic agents. The report has passed the House by an overwhelming margin and is expected to easily pass the Senate as well. The bill gives the Food and Drug Administration new regulatory powers such as requiring up to five days prior notice of food imports, to detain suspicious food imports for inspection, and to require a one-time registration for foreign and domestic food facilities. In addition, it directs the agency to give a "high priority" to increasing the number of food safety inspections at ports of entry and provides funding for additional inspectors. For foreign manufacturers engaged in the import of drug and medical device products into the U.S., it requires annual registration. The registration must include information about the person who imports the products, a definition that includes Customs brokers.

Disclaimer Notice:

Rogers & Brown Custom Brokers, Inc. provides this information as a matter of convenience and as such does not necessarily warrant the accuracy of the information contained herein. This information should not be construed as legal or professional advice. Before you act on any information provided in this newsletter, you should seek professional advice regarding your specific situation.

Solid Wood Packing Materials Alert

Further to our newsletter of June 2001, there have been additional updates to requirements for the European Union and Argentina regarding standards for wooden packaging material meeting correct treatment standards. On March 15, 2002, the International Plant Protection Convention (IPPC), a United Nations treaty governing 118 participating nations, was passed. This aligns all participating countries to standards for wooden packaging materials and all countries are encouraged to permit entry of wood packaging material meeting these standards with the only exception being if a stronger treatment is necessary from a specific region. This covers all non-manufactured, new and used, coniferous and non-coniferous (hardwoods and softwoods) wood packaging and dunnage materials. Manufactured wood packaging materials, such as presswood, are exempt from this measure and do not require additional treatment. Although there is no established deadline, implementation will be left to each country. Canada and the European Union will likely be the first to officially adopt the new standards, possibly by late 2002. The standards will provide globally accepted measures including fumigation with methyl bromide and heat treatment. There are companies that produce export pallets which are considered “manufactured” wood packaging because they are produced under high heat and pressure. For additional information on export wood packing materials guidelines and a copy of the IPPC document on International Standards for Phytosanitary Measures – Guidelines for Regulating Wood Packing Materials in International Trade, you can go to the website <http://www.aphis.usda.gov/ppq/swp/> or you can call Raymond Kelley, Sandra Horan, Steve Earnhardt, or Mike Fowler at (843)577-3630.

ILA Strike – West Coast USA

Rogers & Brown and BOSS International would like to outline to the best of our ability the status, as it exists at this point, of the negotiations between the International Longshoremen and Warehouse Union (ILWU) and Pacific Maritime Association (PMA). Their current contract is due to expire at the end of June and preliminary feedback relates a major stumbling point on which each party has indicated their unwillingness to move. That point relates to the “job security” of the union labor working on the West Coast terminals. Without getting into an elaborate explanation of varied issues, the basis is that labor wants to secure jobs at present levels and the shipping lines want to increase productivity on the terminals and decrease their associated cost through the West Coast terminals. There are many other issues on the table, but this appears to be the point on which a strike could become eminent.

With that point in mind, the prudent step to take would be a thorough evaluation of inbound shipments pending departure from Asia after the first week of June or arrivals into the West Coast on or after the 24th of June for import cargo. Exports booked to sail in weeks 26-28 or between the 24th of June and July 14th should likewise be evaluated. The most logical option for the shipping public in general is to divert shipments to the East Coast via all-water service and move into the destination CY/rail head from the most logical port of unloading on the East Coast. Exports have the option of diverting through Canada on either the East Coast or West Coast as well as at US East Coast ports. There has been some speculation that Canadian port labor will join ranks to some degree with their US counterparts, which at this point seems less likely to occur. Canada is also an option to consider for import cargo that needs to remain proximal to the West Coast ports normally used.

Timing is obviously the primary consideration on which to base the evaluation, either the demand date of your customer – foreign; or your demand date at the domestic facility. Your primary contacts at Rogers & Brown and BOSS International are able to assist you with these evaluations and decisions should you have the need.

Essentially there is a 3-week window, which seems most likely to be affected at this point. Week 26 or the last full week of June has the possibility of seeing a work “slowdown”. A strike, if it happens, is most likely to occur July 1. With a good window left to place contingency plans to avoid potentially significant delays this coming week, time would be well-spent evaluating your international ocean freight traffic moving through West Coast ports.

Entry Requirement Corrected – Reusable Shipping Devices

The Customs Service recently amended its regulations to except certain reusable shipping devices arriving from Canada or Mexico. Customs inadvertently omitted this exception in the list of merchandise excluded from the requirement that all merchandise imported into the United States be entered. This rule corrects the regulations and includes the reusable shipping devices among the list of merchandise excepted from the requirement. For a copy of the Federal Register notice, go to the Trade Reference section of our website or contact your Customer Service Representative.

Customs Receives Textile Petition on Slippers

The Customs Service has received a petition submitted on behalf of a domestic interested party requesting the reclassification of certain imported slippers with uppers of textile materials and outer soles that consist of durable rubber/plastic, the surface of which is covered with a thin layer of textile material. Customs has classified this footwear under subheading 6405.20.90, Harmonized Tariff Schedule of the United States (HTSUS), which has a column one rate of duty of 12.5 percent *ad valorem*. The petitioner contends that the footwear should be classified under subheading 6404.19.35, HTSUS, which has a column one rate of duty of 37.5 percent *ad valorem*. The petitioner argues that the textile material adhered to the rubber/plastic is not plausible soling material, does not come into contact with the ground over the life-span of the slipper and constitutes a disguise or artifice. This document invites comments with regard to the correctness of the current classification.

For a copy of the Federal Register notice, visit our website and go to the Trade Reference section or contact your Customer Service Representative.

Freight All Kinds (FAK) Being Eliminated

If the Port Terrorism Prevention Act of 2002 comes to fruition, the shipping term FAK and other non-specific wording used to describe containerized shipments would be eliminated. The bill (S 2426) as proposed by Senator Charles Schumer (D-NY) would amend the Tariff Act of 1930 to prohibit descriptions on cargo manifests like FAK, “hazardous not otherwise specified” and “said to contain”. It would impose fines for inaccurate counts of merchandise on a manifest that are not reported when a vessel or vehicle makes a formal entry, and fines for these errors would double to \$10,000 for the first violation and \$20,000 for the second. It is fairly obvious why these changes would be made and it would behoove importers and exporters alike to begin thinking along these lines and to make certain documentation is correct and accurate.

Consumer Product Safety Commission (CPSC) Imposes Fine

The Consumer Product Safety Commission imposed a fine of \$125,000 on a toy importer last month for importing toys that did not meet federal safety standards. Although the importer denied all of the allegations, they did agree to the fine and also returned the toys to its overseas suppliers. The company allegedly imported 90,000 toys containing small parts that presented choking and aspiration hazards to children under three years and violating the CPSC’s small parts and labeling requirements under the Federal Hazardous Substance Act. For information regarding the various rules, regulations, laws, and business information by product that CPSC does have jurisdiction over, go to their website at <http://www.cpsc.gov/businfo/compliance.html>. In addition, the following website <http://www.cpsc.gov/businfo/notcpsc.html> lists those products that CPSC does not have jurisdiction over and those agencies that do. For assistance in researching importing or exporting requirements for specific products, you may contact Capers Barr at (843) 958-2209, or Jill Simmons or Christy Hughes at International Trade Consultants at (843) 832-7348.

**“Even when the experts all agree, they may well be mistaken.”
Bertrand Russell**

Helpful Metric Conversion Guides

EQUIVALENTS:

- One Kilogram = 2.2046 pound
- One thousand (1000) Kilograms = One (1) Metric Ton
- One Pound = 0.4536 Kilograms
- Two Thousand (2000) Pounds = 907.2 Kilograms
- One (1) Cubic Meter = 35.3145 cubic feet
- One (1) Cubic Foot = 0.028317 cubic meters
- One (1) Meter = 39.370 inches or 3.2809 Feet
- One (1) Centimeter = 0.3937 inches
- One (1) inch = 2.540 Centimeters
- One (1) Foot = 0.30479 Meters or 30.48 Centimeters

Conversion Factors: Apply the following factors when converting from and to the Metric System.

To Convert	To	Multiply By
Cubic Feet	Cubic Meters	0.028317
Cubic Meters	Cubic Feet	35.3145
Short Tons	Metric Tons	0.9072
Metric Tons	Short Tons	1.102
Pounds	Kilograms	.4536
Kilograms	Pounds	2.2046
Centimeters	Inches	.3937
Feet	Meters	0.3048
Inches	Centimeters	2.54
Inches	Meters	0.0254
Meters	Inches	39.37
F(Farenheit)	C(Celsius)	$(F-32) \times 5/9$
C(Celsius)	F(Farenheit)	$(C \times 9/5) - 32$
Long Tons	Metric Tons	1.016
Metric Tons	Long Tons	0.9842
Measurement Tons	Cubic Meters	1.1327

Russia Recognized as “Market Economy” by European Union (EU)

European Union President Romano Prodi announced on May 29 at the EU-Russia summit that they would grant Russia the formal status and treatment of a fully-fledged “market economy” in recognition of major reforms undertaken by them in recent years. The EU is the first trading power to bestow this recognition on Russia. This is an important milestone on the road to Russia’s WTO membership. The legislative process to formalize Russia’s new Market Economy Status (MES) should only take a matter of months and will benefit Russia from the different treatment in anti-dumping cases, an issue of key interest to both Russian authorities and the business community. In a recent meeting between President Bush and President Putin a joint declaration on future US-Russian relations was signed. The statement basically reiterates the commitment of both countries to the successful conclusion of Russia’s negotiations for accession to the World Trade Organization (WTO). The statement also endorses the Bush administration’s plan to normalize US-Russian trade relations through graduation of Russia from the Jackson-Vanik law. The U.S. Senate just opted against an immediate and unconditional graduation from Jackson-Vanik favoring the same approach that was taken with China, which

graduated only upon the country's accession to the WTO. The Department of Commerce just declared Russia a market economy on June 6. In practical terms, the move will change the way that the US weighs charges that Russia is "dumping" goods on the US market at unfairly low prices. The US will now use the actual domestic price of goods in Russia to compare them to their price on the US market. In non-market economies, the local price is computed by looking at comparable countries and trying to figure out what it would cost to produce the goods in the country under investigation. The down side, however, is that Russian producers will now be exposed to countervailing duties which are imposed on products to eliminate the advantage of government subsidies. All of these changes are a positive step toward meeting WTO acceptance requirements.

Interest Rate Set for Under/Over Payment of Customs Duties

Treasury recently announced that the quarterly IRS interest rate used to calculate interest on overdue accounts and refund of Customs duties has been set at five percent for the calendar quarter beginning April 1.

"The best way to become boring is to say everything." Voltaire

Export Information – US Government

If you are looking for information on exporting, there are some excellent sites that provide lots of excellent free information if you are looking to start exporting or just looking for export information in general. The primary portal for exports is <http://www.export.gov>. This site provides many information channels, export quick reference info, and lots of helpful links as well as the latest export news and press releases – a must to bookmark for all exporters. Another site for exporters is <http://ts.nist.gov/ts/htdocs/210/217/export-alert.htm>. This site allows you to register for the Export Alert! Service, which notifies you, via E-mail, of drafts or changes in foreign regulations for a specific industry sector and/or country. The industry sector is defined by the International Classification of Standards (ICS) designation developed by the International Organization for Standardization (ISO). Notification of the proposed foreign regulations contains a description of the regulation, the country issuing the regulation, and a final date for comments. Visit the site and sign up today – the service is free. Another source of information for those who still enjoy receiving paper publications is Export America, the official magazine of the Commerce Department's International Trade Administration. This magazine offers practical export advice that is geared toward the needs of exporters looking to enter or expand into global markets. Each monthly issue features such valuable information as:

- Details on regional developments likely to affect exporters;
- Trade opportunities, by country and industry;
- Technical advice and on-line marketing tips;
- The latest official export statistics

A subscription to this publication is \$55.00 per year and can be made in one of the following ways:

- 1) Via the Government Printing Office – <http://bookstore.gpo.gov> and search for Export America.
- 2) Toll free – call (866) 512-1800 or (202) 512-1800 (with DC).
- 3) Fax order to (202) 512-2250 (download in Adobe Acrobat).
- 4) Mail order form to:

Superintendent of Documents
PO Box 371954
Pittsburgh, PA 15250-7954

For information on Trade Compliance issues, visit the following site, <http://www.tcc.mac.doc.gov/cgi-bin/doi.cgi?226:54:977543167:19>. This site, Trade Compliance Center, helps American exporters overcome foreign trade barriers and works to ensure that foreign countries comply with their commitments to the United States.

Exporters Reporting Procedures under Census Review

A recent review by the U.S. Census Bureau of the use patterns for filers of Shipper's Export Declaration (SED) data has led to the recommendation that the Filer Status Option 3 be eliminated. Only approximately three percent of all SEDs filed are reported using Filer Status Option 3. According to a Census spokesperson, "the future of Option 3 does not look bright. We will be putting in the notice of proposed rule that contains the new Commerce Control List (CCL) and United States Munitions List (USML) reporting requirements, the elimination of Option 3. We expect the Notice to come out in July. The trade will then have 60 days to comment." "After the comment period is over, we will publish a final rule. 90 days after the final rule is published, we will implement the new regulations. Therefore, we do not expect to see the removal of Option 3 until early 2003."

The original four filer options were: the non-automated Option 1, which provides for the filing of paper SEDs, pre-departure, as well as the AES electronic filing options of; Option 2 which requires full pre-departure transmission and is the basic way of reporting export shipments in AES; Option 3, implemented in September 1999, requires partial information reported pre-departure followed by complete information filed within five days of export. Option 3 does not require prior approval.

Option 4 was implemented in March 1999 and is available to approved exporters only. It allows the approved exporter to send his shipment without pre-departure notification to AES. Full post-departure information must be reported within ten working days from the date of exportation.

Rogers & Brown has maintained software, which provided many of our clients with the flexibility of option 3 reporting. Since this option may soon be unavailable, we would like to assist you in application for acceptance as an approved exporter (Option 4) or work with you to ensure the timely production of all export data for pre-departure transmission (Option 2). The choice remains with you, our client. If you would like additional information on this subject, please email Steven.Earnhardt@Rogers-Brown.com.

"If you think you can't be replaced, check out a local cemetery." Anonymous

Proof Required For Actual Costs of Non-Dutiable Charges

Importers are reminded that if they are deducting non-dutiable charges (NDCs) from their commercial invoice price in arriving at the entered value declared to Customs, Customs requires that the importer maintain records to substantiate the actual costs of such charges. NDCs include charges, costs or expenses incurred for transportation, insurance and related services incidental to the international shipment of the merchandise from the country of exportation to the place of importation in the United States, such as ocean freight and marine insurance. To the extent that these charges are included in the commercial invoice price, they may be deducted from the invoice price, and the duties calculated based on the "net" invoice amount after the deduction. However, importers must be able to substantiate the actual costs of such charges if they are deducted. Failure to substantiate such charges by producing appropriate records when requested by Customs could lead to the imposition of fines and penalties. Acceptable proof of the actual costs of non-dutiable charges includes: invoices for the charges from the providers of such services (i.e., ocean transportation services or marine insurance) or a bill of lading which reflects the ocean freight charges. The Customs website contains an informed compliance publication entitled "Proper Deductions of Freight and Other Costs" which discusses this topic in greater detail. For more information contact Capers Barr or Jill Simmons at International Trade Consultants at (843) 832-7348.

Customs Stresses the Importance of Internal Controls to Ensure Compliance

In an effort to maximize the effectiveness of its resources and to audit more importers, Customs announced in the latter part of 2001 that it has discontinued the Compliance Assessment form of its regulatory audit in favor of the Focused Assessment. At a recent seminar on the Focused Assessment conducted by Customs in Chicago, Customs explained that although it had planned to conduct Compliance Assessments on the top 1000 importers between 1995 and 2000, as of March 2001 it had only completed 425 Compliance Assessments.

Customs is no longer focusing solely on the top importers as audit candidates. This means that the Primary Focus Industries (PFIs) are a thing of the past. Customs explains that importers are now selected for a Focused Assessment based on risk. For example, importers that routinely take advantage of Special Duty Programs, such as GSP and Chapter 98 HTSUS will be scrutinized more closely than those importers that do not.

Customs explains that through the Focused Assessment, it will be able to audit more importers with the same amount of resources. The primary difference between the Compliance Assessment (CA) and the Focused Assessment (FA) is that under the CA, Customs began by conducting transactional auditing, which consisted of auditing approximately 100 entry records and then scoring the importer on the results of what Customs found. Under the FA, Customs begins by reviewing the importer's internal controls. If the importer has sufficient internal controls in place that are being followed, the FA ends at that point. If the importer does not have sufficient internal controls, Customs will then go on to transactional auditing, which could take much longer and reveal many other areas of non-compliance.

Examples of internal controls include policies and procedures within the company: 1) to ensure that the proper value is being declared to Customs at the time of entry; 2) to ensure that merchandise is being classified properly under the HTS; 3) to ensure that the appropriate records are maintained by the importer and can be readily produced upon request; 4) to ensure that the goods are properly marked with the correct country of origin; 5) to ensure that the correct quantity of merchandise has been declared to Customs at the time of entry; and 6) to ensure that all of the special requirements of any applicable preferential duty programs (i.e., NAFTA, GSP, CBTPA, AGOA) are being complied with.

International Trade Consultants, Inc. specializes in evaluating importers' organizational structure and importing procedures and assisting importers in developing internal controls to ensure a heightened level of compliance with the Customs laws and regulations. For more information, contact Capers Barr at (843) 958-2209 capers_barr@intradeco.com; or Jill Simmons at (843) 832-7348 jill_simmons@intradeco.com.

US Customs Offers Electronic Refunds

Importers can now receive electronic refunds of overpaid duties, taxes, and fees from US Customs. The new Automated Clearing House (ACH) Refund Program deposits refunds directly into importers' bank accounts with identifying information sent directly to their banks and financial institutions. Using electronic fund transfers for refunds should significantly shorten the one to two week time lapse between check printing and the funds becoming available in the importer's bank account. The identifying information provided by Customs will vary, depending on the type of overpayment, but it will usually include the entry number, liquidation date, interest amount, and the reason for the refund. Importers will have to discuss with their banks how they will access the information. The same identifying information will also be available to importers at a secure site on the Internet. The information will be posted on the date the bank receives the funds and will remain available there for 60 days. Enrollment in the ACH Refund Program requires online registration to access the refund details on the Internet, and filing a paper application form with the US Customs Service, National Finance Center, in Indianapolis. Application forms and additional information can be obtained from the NFC's Revenue Branch, Billings Section, by calling 317-298-1200 Ext. 1178. E-mail ach-customs@customs.treas.gov.

2002 Summer Seminars

Location:

Hampton Inn
7803 National Service Road
Greensboro, NC 27409
336-605-0686

Wednesday, June 19, 2002

Basics of Harmonized Tariff Schedule - Morning Session

How to Develop a Customs Compliance Program – Afternoon Session

Thursday, June 20, 2002

Basics of Export Compliance – Morning Session

Basics of NAFTA – Afternoon Session

Fees & Registration Information

Morning Sessions: 8:30 AM to 12:00 PM

Afternoon Sessions: 1:30 PM to 5:00 PM

Half-Day Seminar: \$175

Full-Day Seminar: \$300

***All registration forms and fees must be received by June 14, 2002.**

Registration can be made on-line at http://www.intradeco.com/locations_and_fees.html. We accept company or personal checks as well as Visa, MasterCard, and American Express. For additional information, you may contact Christy Hughes or Jill Simmons at (843) 832-7348.

THANK YOU FOR YOUR CONTINUED SUPPORT!

If you have any suggestions or complaints, please call one of the individuals below at 843/577-3630 or email them as noted.

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