

BARTHCO Communicator

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Corporate Compliance Activity Requires Reasonable Care

In the past, Customs regulations required a person to hold a valid customs broker's license and permit to transact customs business on behalf of others. This rule insures that unqualified persons are not conducting customs business without a license. Customs has had a very strict interpretation of this rule and, on several occasions, has ruled that related companies could not even provide advice to one another on customs matters. For example, a parent company with a customs compliance department could not offer advice on customs matters to its subsidiary or sister company. The Customs rulings prevented related companies from sharing sound compliance information.

After reviewing this matter, Customs has relented and agreed that related business entities engaging in corporate compliance for the purpose of exercising reasonable care are not subject to the

customs broker licensing requirements. In a nutshell, Customs will now permit related companies to offer advice to one another on customs issues, but will not permit those companies to prepare or file customs documents for one another.

This rule allows a company to offer classification or valuation advice to its related company but will not allow that company to prepare the actual entry documents.

This is a brief overview of the regulation. Any company that engages in this activity may call Barthco Trade Consultants for further details or clarification.

The new rule permitting corporate compliance defines this activity as follows:

"Corporate compliance activity" means activity performed by a business entity to ensure that documents for a related business entity or

entities are prepared and filed with Customs using "reasonable care," but such activity does not extend to the actual preparation or filing of the documents or their electronic equivalents. For purposes of this definition, a "business entity" is an entity that is registered or otherwise on record with an appropriate governmental authority for business licensing, taxation, or other legal purposes, and the term "related business entity or entities" encompasses a business entity that has more than a 50 percent ownership interest in another business entity, a business entity in which another business entity has more than a 50 percent ownership interest, and two or more business entities in which the same business entity has more than a 50 percent ownership interest."

Duty Drawback Updates

Duty drawback is a U.S. Customs law that allows an exporter to receive a refund for duties paid on imported goods that are either exported unused or manufactured into finished products and then exported. The drawback program benefits U.S. companies by enhancing their competitiveness through reduced production costs and/or price advantages when selling in the global market.

Three main types of drawback are:

unused merchandise, manufacturing, and rejected merchandise drawback.

Unused Merchandise Drawback. When imported duty-paid merchandise is exported, unused merchandise drawback may be claimed. The term 'unused' refers to merchandise that has not been put to its intended use. Drawback may be claimed by using either the direct identification or substitution method which refers to the substitution of commercially

interchangeable imported or domestic merchandise for imported, duty-paid merchandise.

Manufacturing Drawback. When imported duty-paid merchandise is used in a manufacturing operation and the finished product is exported, manufacturing drawback may be claimed through direct identification or substitution options. Substitution requires that the imported dutiable merchandise and its equivalent

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CUSTOMS CORNER

One Face at the Border

This newly created position of a single customs officer, the Customs and Border Protection (CBP) Officer, is the result of a job merger of more than 18,000 inspectors from U.S. Customs Service, the Immigration and Naturalization Service, and the Animal and Plant Health Inspection Service. The CBP officer is a frontline officer whose job description incorporates all the functions "previously performed by three distinct inspectional workforces." Both the public and trade community will see "one face at the border" at more than 300 ports of land, sea, and air entry.

Miscellaneous Tariff Bill

Now that Congress has returned from vacation recess, it must consider several trade bills. The Miscellaneous Tariff and Technical Corrections Act has been stuck in Congress and includes, among other things, duty reductions in more than 300 tariff numbers and changes in the drawback laws. The legislation is supposed to be dissension of free legislation designed to sail through both houses of Congress. However, Senator Richard Shelby of Alabama has placed a hold on the bill in hopes of including a provision designed to help textile interests in his home state. There is no word on how the current impasse will be resolved.



FDA Bio-terrorism Act



In February 2003, the FDA published a proposed rule requiring registration of all foreign and domestic food manufacturers and any company that handles, processes, stores, or imports foods. The rule requires all food products importers to pre-notify the FDA of all food imports prior to importation. The FDA published the interim final rule on October 9th, giving all importers until December 12, 2003, the congressionally mandated effective date, approximately two months to prepare. Barthco will inform customers about programs we will institute to assist with compliance.

Chile and Singapore Free Trade Acts

Congress has passed and the President has signed into legislation the Chile and Singapore Free Trade Acts. As of this date, we await regulations that will be used to implement provisions of these free-trade agreements. We expect the rules for these acts to go into effect at the beginning of 2004. As soon as we receive word, we will notify our clients through our Web site and by separate mailings.

Seahorse Newark Adds Value to Your Supply Chain

Barthco's Newark office has some new tenants.

In June, Barthco hired Patricia Oliveira as a Customer Service Representative for Seahorse in Newark. Patricia joins George Cirrilla and me, Ed Piza, in handling all Seahorse activities in the New York/New Jersey area.

Since establishing additional business in the New York/New Jersey market, it has proven invaluable to have a local office. The customers appreciate the quick response that

close proximity allows. It is not unusual to see George running from warehouse to warehouse during lunch to drop off delivery orders or to see Patricia delivering original bills of lading to carriers on her way home. When a customer needed some help interpreting documents, a 20-minute trip on the NJ Turnpike and a 15-minute meeting solved a problem for both Seahorse and one of our best customers. The personal contacts made at both ocean and

rail terminals allow us to expedite much of our customers' cargo.

Seahorse is continuing with its weekly consolidation program from Hong Kong to New York and Philadelphia. This weekly, regularly scheduled container is handled by Seahorse Newark and Seahorse Folcroft. Customers who take advantage of this service are ensured that their LCL cargo (less-than-container-load) will arrive on-time, with smooth document flow and single-point-of-contact servicing.

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Three Industry Experts Join Barthco's Sales Team

Please join us in welcoming three industry experts to Barthco's sales team.

Carol Lathan will work out of the Charlotte office, developing the six-state southern region. Carol brings 25 years of experience selling full-service logistics.

Jeff Orr will be working out of the Chicago office to develop the seven-state Midwest region. Jeff has 23 years of experience selling full-service logistics.

Pablo Rodriguez, our new sales person in Miami, has 10 years of industry experience. Pablo will work with the local branch office selling all Barthco services to develop new business for the company.

Barthco Milestones



25 Years

David Weiss
Robert Chin Quee
Diane Raffle

20 Years

Vicky Stankiewicz

15 Years

Pauline Voigt

10 Years

Christa DeStefano
Joe Dougherty
Ben French
Teri Stinger

Just Born



Saray Larios, Miami, and husband Marco welcomed daughter Stephanie on 8/1/03.

A son, Andrew, was born 8/29/03 to

Sandra Aguayo-Orozco, Los Angeles.

A daughter, Erin, was born 8/27/03, to **Sharon Bernstein**, Charleston and husband Matt.

Kristina Campoverde, Philadelphia, and husband Lauro announce the birth of son Estevan Mathieu, born 9/7/03.

Cliff Reed, Philadelphia, and wife Kim welcome son Christian Joseph, born 8/25/03.

A son, Zachary Christian, was born 8/15/03, to **Teri Stinger**, Folcroft, PA, and husband Christian.

Seahorse *(continued from page 2)*

Additional weekly consolidated containers from Shanghai and Kaoshiung are being planned to broaden Seahorse's service.

If you use other forwarders to handle CFS cargo to New York or Philadelphia from Hong Kong, we can save you time and money by keeping the transaction within the Barthco family of services.

I am spending a great deal more time working out of the Newark office. When I'm not traveling to Asia working with our contracted ocean carriers and visiting the vendors of our accounts, Newark places me in the heart of the largest customer base in the U.S.

North Jersey is also home to a great number of importers. As we deal with our ocean carriers globally, Newark is a central location for visiting the carriers' USA headquarters. NYK, CMA, MSC, Yangming, Evergreen, Hapag Lloyd, P&O Nedlloyd, UASC, Hanjin, COSCO, China Shipping, just to name a few, have their USA headquarters in New York or New Jersey.

With Newark complementing the work done by our Folcroft office, our business is growing. Seahorse can add value to your supply chain. If you need ocean and air freight service, please don't hesitate to contact the Newark office for assistance.

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The Barthco Communicator

The Barthco Communicator is published quarterly by Barthco International for our valued customers and employees. An on-line version is available at www.barthco.com and as an e-mail attachment.

Please send an e-mail to marketing@barthco.com with your company name and e-mail address if you would like to receive the Barthco Communicator electronically.

Duty Drawback Updates *(continued from page 1)*

are of the same kind and quality, and that the manufacturing processes have not changed significantly.

Rejected Merchandise Drawback allows for refunds of import duty when imported merchandise, defective at the time of importation, has been shipped without the consent of the consignee, or fails to meet specifications.

The Drawback Process begins with an evaluation of eligibility and potential. The next step is to lay a foundation by obtaining the necessary manufacturing rulings and special privilege approvals from Customs. Subsequently, the import, inventory, manufacturing and export details must be assembled from key commercial documents or electronic files in order to prepare and file drawback claims. Finally, overall program audit readiness, including post-claim follow-up and record retention, needs to be addressed and implemented.

Drawback has had a high profile in recent years. The Miscellaneous Trade Act of 2003 includes drawback changes such as a one-year deemed liquidation clause, drawback for merchandise returns, and easier ways to claim on packaging materials. As of this writing, the Trade Act is stalled in the Senate.

E-Filing Drawback Claims. A drawback paperless prototype, initiated June 2003, will be tested for one year for approved claimants filing in the New York/Newark Drawback Center. As the name suggests, claim data may be filed electronically via the Automated Broker Interface (ABI) without filing a paper copy of

the claim. If the prototype is successful, e-filing will be implemented in other drawback centers.

Free Trade Agreements have been a political issue for more than a decade since the Canadian FTA, NAFTA, and the more recent Singapore and Chile FTA's have gone into effect. Future agreements include Central America and eventually all of the Americas (Free Trade Area of the Americas). The U.S. Trade Representative's (USTR) policy position has been to restrict or eliminate drawback for U.S. manufacturers and exporters in each FTA, to the detriment of U.S. companies. The drawback community feels that the U.S. rationale for restricting drawback rights in FTA's is not valid, and that no empirical evidence has surfaced to support it. As long as tariffs exist, drawback should be available to enable U.S. companies to compete against their foreign competitors and to win in the global market. Your opinion and support for maintaining full drawback rights in FTA's can be voiced at meetings organized by the government and the private sector. Letters can be also sent to the USTR, the Department of Commerce, and the Department of the Treasury.

Barthco, through its valued partnership with C.J. Holt & Company, Inc., stands ready to fully support your drawback requirements. Please call your sales representative with any drawback questions. C. J. Holt & Co., Inc., a licensed customs broker specializing in Duty Drawback, is the oldest continuously operating drawback specialist in the U.S. today.

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