

BARTHCO Communicator

The Newsletter of Barthco International

Summer 2004 • Vol. 11 • No. 3

Antidumping Duties Pose a Challenge *by Ivan Kass*

Importing merchandise subject to antidumping duties can be financially and legally challenging because of the complexity of the dumping statute, the involvement of three government agencies, and the fluctuating nature of antidumping deposit rates.

This article, and others to follow, will give the importer a better understanding of antidumping laws and procedures.

Dumping occurs when imported merchandise enters the U.S. at less-than-fair value (LTFV) and either injures or threatens to injure a domestic industry. Sales at LTFV are determined by the Department of Commerce. The International Trade Commission (ITC) conducts injury investigations.

Antidumping cases begin with a petition filed simultaneously with Commerce and the ITC. Petitions are typically filed by domestic manufacturers, labor unions, or consumer groups. After the petition is filed, the ITC has 45 days to make a preliminary injury determination. If the injury determination is negative, the case is terminated. If positive, Commerce must do an LTFV determination 160 days after the petition is filed. If the preliminary LTFV determination is negative, the investigation continues.

If a positive LTFV determination is made, the importer is directly impacted for the first time. Customs and Border Protection (Customs) will require that all entries filed on or after the date of the Preliminary Determination, as shown in the Federal Register, must have the following:

- A cash deposit or bond for the estimated dumping duties. A Single Entry Bond is required if the margin is 5% or higher.
- An Entry Type 03, 07, 34, or 38. Liquidation is automatically suspended when any of these types are transmitted.

The antidumping Case Number, as assigned by Commerce, must be shown on Customs Form 7501. Because there is a minimum of 160 days between the time the petition is filed and dumping duties are required, there could be a temptation to flood the market with cheap imports during that period.

(Continued on Page 4)

Barthco Opens Office in Columbus, Ohio

With the opening of a new office in Columbus, Ohio, Barthco has the capability to process clearances in Ohio, Indianapolis, Erie, and Louisville. Managed by Deborah Rogacki, who has twenty years of industry experience, the Columbus office staff specializes in handling textile shipments, is HAZMAT-certified, and can accommodate any customer's needs.

Please contact Barthco's Columbus office at (614) 372-0507 for service.



Front row, left to right: Heather Young, Keith Leppla, Jennifer VanGundy. Back row, left to right: Trish Ritter, Rachel Miller, Lindsay Crissinger, Deborah Rogacki, Leigh Bias.

Did you know?

- Barthco International now has an office in Columbus, Ohio.
- Columbus is the third-largest U.S. port of entry for textiles.
- This strategic midwest location is served by three railroad carriers that operate three intermodal yards capable of 400,000 lifts per day.
- Each day, 15,000 truckloads originate or terminate in Columbus.
- Fifty-eight percent of the U.S. consumer market and half of Canada's consumer market are within a one-day truck drive of Columbus.
- Columbus has the largest all-cargo airport in the U.S.
- Port Columbus International Airport and Rickenbacker International Airport are served by 23 airlines.
- Rickenbacker International is one of the world's few cargo-dedicated airports.

CUSTOMS CORNER

President Bush Signs CAFTA



The United States Trade Representative (USTR) has announced that President Bush has joined Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua in signing the Central America Free Trade Act (CAFTA). Although the Dominican Republic agreed to join CAFTA, it had not officially signed the agreement as we went to press with this newsletter. Because CAFTA contains controversial issues, submission of legislation to Congress for approval may occur after the November U.S. elections.

U.S. and Bahrain Complete Free Trade Agreement

The USTR has officially announced the United States and Bahrain have completed a free trade agreement. Details are forthcoming. The next step requires the Bush Administration to notify Congress at least 90 days before signing the FTA with Bahrain. The actual implementation of the agreement, if approved by Congress, is still months away.

Harbor Maintenance Tax Denied

On May 17, 2004, the U.S. Supreme Court declined to review decisions made by the Court of Appeals for the Federal Circuit that upheld the payment of the Harbor Maintenance Tax (HMT) on imports and domestic shipments. In effect, the Supreme Court validated the HMT on imports. Consequently, the CBP issued instructions to its ports to deny all protests of import HMT.

Elimination of Textile and Apparel Quotas

With many questions concerning the elimination of quotas beginning January 1, 2005, CBP has announced the creation of a new Web page to provide information on this elimination: http://www.cbp.gov/xp/cgov/import/textiles_and_quotas/wto_quota.xml. Several questions have arisen over this final integration. Will visas still be required? How will warehoused over-quota 2004 imports be handled in 2005? Will new and different barriers replace quotas? It is up to the Committee for the Implementation of Textile Agreements (CITA) to answer such questions. Stay tuned.

Customs' ACE Modules Test Monthly Statements *by Robert Chin Quee*

Customs and Border Protection began testing periodic monthly statement payments of Customs duty and fees, and ACE continues to release various modules. Customs went live with the module on June 21st, and on June 22nd, participating importers (or their designated customs brokers) began selecting entries for monthly statements.

Importers or designated brokers schedule entries for monthly payment, which will appear on Preliminary Periodic Daily Statements. The importer processes the entry summary presentation within 10 working days of the entry date. After entry summary information has been filed, the scheduled entries appear on the Final Periodic Daily Statement. Entries appearing on the Final Periodic Daily Statements that are scheduled for monthly payments will appear on the Preliminary Periodic Monthly Statement. CBP will generate the Preliminary Periodic Monthly Statement on the 11th calendar day of the following month in which the merchandise is either entered or released, whichever comes first, unless the importer selects an earlier date.

On the 15th of that month, for ACH debit participants, CBP transmits the debit authorizations compiled in the Preliminary

Periodic Monthly Statement from the Final Periodic Daily Statements to the financial institution. ACH debit participants must ensure that the money amount identified on the Preliminary Monthly Statement is available by the 15th of the month following the month in which the merchandise is either entered or released, whichever comes first. ACH credit participants must register payment to CBP no later than the 15th of that month.

Importers and brokers should make sure that goods entered or released toward the end of the month appear on a Preliminary Periodic Daily Statement, which is finalized prior to Customs generating the Preliminary Periodic Monthly Statement for that month. Late payments are subject to penalties. Participants should also note that if they remove an entry from a Periodic Daily Statement before expiration of the 10-working-day period after release, that entry may be placed on another Periodic Daily Statement falling within the same 10-working-day period. If a participant removes an entry from a Periodic Daily Statement or a Monthly Preliminary Statement after expiration of the 10-working-day-period after release, then that entry must be paid individually, and will be subject to penalties.

The current importer statement process is to select a payment date within 10 working days of the date of entry as defined in the Customs Regulations. Entries with the same designated pay date, same port, and same payer will appear on the same daily Preliminary Statement. The Preliminary Statements are authorized on a daily basis and considered paid on Customs' acceptance. A final Daily Statement is returned by Customs the next working day after payment. Apart from in-house operation and accounting controls, the

(Continued on Page 4)

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.



Barthco Out and About

Barthco and AGIL Cargo Participate in Apparel Sourcing 2004

The theme of the 13th Annual Apparel Show in Guatemala City was "Integrating the CBI Apparel Supply Chain." CAFTA was a hot topic of conversation with Central America moving into a new era of business and trade. Companies from all over Latin America and the U.S. participated in what attendees consider the most important gathering of the year. The show included a diverse range of exhibitors, from textile to full-package producers. As expected, the show was a success.



Pictured from left to right: Pablo Rodriguez (Barthco), Luis Pierrri (AGIL Cargo), Carmen Quintana (Barthco), Claudia DeGarcia (Owner, AGIL Cargo), Edith Santizo (AGIL Cargo), Carlos Gómez (AGIL Cargo).



Just Born

A son, William Kennedy Shepherd, was born to *Misty Shepherd*, Charleston office, and husband Jason on May 26th.

Tiffany Schulze, Houston office, had a son, Aaron, on April 5th.

Patrick Kelly, Philadelphia office, and wife Kara, welcomed a son, James Patrick, on February 16th.

A son, Damian Edward, was born on May 27th to *Yarima Moreno*, Miami office.

Barthco Milestones

30 Years
Bert Trinidad

20 Years
Brian Riley
Kim Whitfield

25 Years
Donald Simpson

15 Years
Gerald Griffin



10 Years
Janet Jones
Darlene Baker

Barthco Faces



William Evans
Senior Vice President

William Evans is a Senior Vice President with Barthco International, and a Licensed Customs Broker who has worked at Barthco for 29 of his 35 years in the international freight forwarding industry.

Bill has extensive experience in international logistics. His first position at Barthco was manager of the New York offices in Manhattan and JFK airport. He created Barthco's Special Services department and collaborated with the Smithsonian Institution Press on the publication of "Courier-speak," a multilingual guide for couriers of high-value shipments.

He is involved in numerous professional organizations. Bill is a technical advisor to government and industry on supply chain security, he serves as chairman of the Security Committee, and is a member of the Forwarding Committee of the National Customs Brokers and Forwarders Association of America.

Bill is also a member of the National Cargo Security Council and has completed the Cargo Security Management course at the Global Maritime and Transportation School of the U.S. Merchant Marine Academy. He served on the trade advisory team that developed guidelines for the Customs-Trade Partnership Against Terrorism (C-TPAT) and has helped more than 50 importers join the C-TPAT program.

Recently, Bill helped organize the Supply Chain Information Security Analysis Center (SC-ISAC), to be located at the Transportation Security Administration's (TSA) Transportation Security Coordination Center (TSCC). In partnership with the TSA, SC-ISAC members will develop and analyze intelligence to be used in the fight against terrorism.

Bill also volunteers his expertise with other government programs. He is one of only a few individuals appointed by the Department of Homeland Security to the special subcommittee organized to meet the requirement of the Maritime Transportation Security Act of 2002. Among the committee's goals is an evaluation of ocean container security measures, which are being explored by Customs and Border Protection (Smart Container) and the Department of Transportation (Operation Safe Commerce).

Bill works in Barthco's Philadelphia office at 721 Chestnut Street and can be reached at (215) 238-8600.

Mary Jo Muoio Voted VP of NCBFAA

Mary Jo Muoio, President, Barthco Trade Consultants, has been elected to serve a second term as Vice President of the National Customs Brokers and Forwarders Association of America. Mary Jo has been active in the association for more than a decade, serving on the board of directors, representing the New York region and as Secretary. Her duties include assisting the president in developing and implementing policies as agreed on by the board and its members. Voting took place at the April 2004 conference in Orlando. A term lasts two years.

Customs' ACE Modules Test Monthly Statements

(Continued from Page 2)

main difference between the Daily Statements and Periodic Daily Statements is the time that CBP receives payment. Entry processing is relatively the same with additional payment types to select.

It is important to note that not all entries qualify for monthly payment. Customs will allow all entries currently eligible for placement on a Daily Statement to be placed on a Periodic Daily Statement, with the exception of reconciliation entries, NAFTA duty deferral entries, entries requiring the payment of excise taxes, and entries containing census errors. In essence, some importers may have Daily Periodic Statements and Daily Statements.

During "release 3," Customs hopes to significantly increase the number of importer/broker participants. Broker participation depends on the importer's designation. Eligible participants are encouraged to apply. To participate in this test, importers and their designated brokers must meet the following criteria:

1. Participate in the Customs-Trade Partnership Against Terrorism (C-TPAT)
2. Have the ability to connect to the Internet
3. Have the ability to make periodic payment via ACH Credit or ACH Debit
4. Have the ability to file entry/entry summary via ABI (Automated Broker Interface)

CBP is anxious to generate monthly statements in July for participants who began using the system in June.

Antidumping Duties Pose a Challenge

(Continued from Page 1)

To prevent that from happening, the law contains a provision known as Critical Circumstances that allows for retroactive suspension of liquidation of entries filed up to 90 days prior to the Preliminary Determination.

The final LTFV and injury determinations are due on days 235 and 289, respectively. A negative finding by either agency will result in the termination of the case. If this occurs, Customs will liquidate all suspended entries and either refund all collected dumping duties or cancel posted bonds.

Affirmative final determinations will lead to the issuing of an Antidumping Order by Commerce on day 287 of the investigation. The Order is significant in that entries filed on or after the date of the Order must have a cash deposit for antidumping duties (bonds are no longer allowed). Also, interest begins to accrue on entries filed on or after the Order date. When the suspended entries are eventually liquidated, several years in the future, interest will be charged when the estimated margins increase, or refunded when the margins decrease.

Once an antidumping Order is issued, a case can virtually exist forever. The Uruguay Round Agreements of 1994 amended the antidumping law to include the "sunset provision." This provision requires the ITC to conduct a review five years after the Order date to determine whether revoking the case would likely lead to continuation of dumping and material injury. If the determination is affirmative, the case will continue.

Future articles will address administrative reviews, liquidations, Customs procedures, and other related topics.

BARTHCO INTERNATIONAL, INC.

721 Chestnut Street • Philadelphia, PA 19106
(215) 238-8600 • Fax: (215) 592-1254
Toll Free: 1-888-BARTHCO
www.barthco.com

BARTHCO LOGISTICS

514 Kaiser Drive • Folcroft, PA 19032
(610) 461-3200 • Fax: (610) 461-3250

BARTHCO TRADE CONSULTANTS

7575 Holstein Avenue • Philadelphia, PA 19153
(215) 365-8600 • Fax: (215) 937-6685
9 Farber Hill Road • Suite 300 • Boonton, NJ 07005
(973) 402-8300 • Fax: (973) 402-0012

BARTHCO OFFICES

Allentown, PA • Baltimore, MD • Charleston, SC
Charlotte, NC • Chicago, IL • Columbus, OH
Harrisburg, PA • Hong Kong • Houston, TX
Los Angeles, CA • Miami, FL • Newark, NJ
JFK Airport, NY • Norfolk, VA • Philadelphia, PA
Seattle, WA • Wilmington, DE

Global Solutions...Personally Delivered

35 YEARS OF EXCELLENCE

Visit us on the Web!

Barthco's Web site provides clients with important trade news and access to its Web-enabled services.

**Regulatory Updates • U.S. Customs
FAA • Port Information • Textile Alerts**

WEB SITE ACCESS:

**Cargo Tracking • Direct Access
LINCS • Web Imaging • eFocus**

www.barthco.com