

## Client Advisory

June 2001

# Customs Proposes to Distribute Antidumping and Countervailing Duties to Affected U.S. Producers

On June 26, 2001, the United States Customs Service published proposed regulations to administer the Continued Dumping and Subsidy Offset Act of 2000 (the Act). Under the Act, Congress instructed Customs to distribute antidumping and countervailing duties to “affected domestic producers” to reimburse these producers for certain expenditures incurred after issuance of an antidumping or countervailing duty order. More specifically, the Act provides for the distribution of antidumping or countervailing duties assessed on or after October 1, 2000 for orders or findings in effect as of January 1, 1999 or thereafter. Customs’ proposal would add a new subpart F to Part 159 of the Customs Regulations.

Customs’ proposed procedure envisions that Customs will publish, at least 60 days prior to the end of a fiscal year, a notice advising the trade that it intends to distribute antidumping and countervailing duties for that fiscal year. The notice to distribute will list the names of companies potentially eligible for a refund (as determined by the U.S. International Trade Commission), as well as the case name and number of each antidumping/countervailing duty order/finding, and instructions for filing a claim. Customs’ current list of potentially eligible companies is available on Customs’ Web site at <http://www.customs.gov/news/fed-reg/notices/dumping.pdf>.

To obtain payment, each affected domestic producer must submit a certification under oath to Customs within 60 days of Customs’ publication in the *Federal Register* of its notice of intent to distribute the offset. The certification must identify the *Federal Register* notice under which it is submitted and the relevant case name and number. Companies requesting a distribution also must certify that they have not ceased making the product covered by the antidumping or countervailing duty order/finding or ceased operating (in which case the company is not eligible for a distribution). They also must certify that they have not been acquired and are not related to a company that opposed the order or finding.

Distributions may be obtained to reimburse eligible companies for certain expenditures. The expenditures that are eligible for reimbursement are those for manufacturing facilities, equipment, research and development, personnel training, acquisition of technology, health care benefits for employees paid for by the employer, environmental equipment, training or technology, acquisition of raw materials and other inputs, and working capital or other funds needed to maintain production.

As part of the application process, producers would have to identify the amounts of such expenditures and whether they previously received any distributions for such expenses. Customs' proposal advises that Customs may audit claims for distributions and would require applicants to maintain records relating to the certification for three years from the date the certification is filed with Customs.

Finally, while the Act does not require it to issue an annual report on its distributions, Customs advised that it intends to issue such reports and make them available on Customs' Web site.

Customs has not yet decided whether it will make public the names of companies actually receiving a distribution and/or the amounts of such distributions. Written comments on this issue, and the proposed regulation in general, are due by July 26, 2001. For further information, including a copy of the proposed regulation, or assistance in filing comments, contact any member of Katten Muchin Zavis Rosenman's Customs and International Trade Practice or Global Trade Advisory Group.

## Customs and International Trade Practice

**Myron P. Barlow**, Attorney  
202 625 3568  
myron.barlow@kmzr.com

**David M. Dunbar**, Partner  
312 902 5315  
david.dunbar@kmzr.com

**Patricia M. Hanson**, Partner  
312 902 5496  
patricia.hanson@kmzr.com

**Tammie G. Krauskopf**, Attorney  
312 902 5228  
tammie.krauskopf@kmzr.com

**Kathleen M. Murphy**, Co-Chair  
312 902 5364  
kathleen.murphy@kmzr.com

**Michael E. Roll**, Partner  
312 902 5581  
michael.roll@kmzr.com

**Marianne Rowden**, Attorney  
312 902 5416  
marianne.rowden@kmzr.com

**James L. Sawyer**, Partner  
312 902 5670  
james.sawyer@kmzr.com

**David R. Stepp**, Partner  
310 788 4637  
david.stepp@kmzr.com

**Mark S. Zolno**, Co-Chair  
312 902 5436  
mark.zolno@kmzr.com

**Therese Ignich**, L.C.B., Paralegal  
312 577 8188  
therese.ignich@kmzr.com

**Craig A. Unruh**, L.C.B., Paralegal  
312 577 8550  
craig.unruh@kmzr.com

## Global Trade Advisory Group

(a Division of KMZ Rosenman)

**Peter J. Battaglioli**,  
Customs Audit Specialist  
202 625 3788  
peter.battaglioli@kmzr.com

**Donald P. Luther**, Trade Specialist  
202 625 3617  
donald.luther@kmzr.com

**Carolyn DeCuir Palanca**,  
Trade Specialist  
312 577 8009  
carolyn.palanca@kmzr.com

**Robert J. Pisani**, Director  
202 625 3556  
robert.pisani@kmzr.com

*For further information please contact any of the members of  
KMZ Rosenman's Customs and International Trade  
Practice or Global Trade Advisory Group.*

*Published for clients as a source of information about current developments in the law. The material contained herein is not to be construed as legal advice or opinion.  
© 2002 Katten Muchin Zavis Rosenman. All rights reserved. Katten Muchin Zavis Rosenman is a Law Partnership including Professional Corporations.*

**KMZ Rosenman**  
KATTEN MUCHIN ZAVIS ROSENMAN

[www.kmzr.com](http://www.kmzr.com)

525 West Monroe Street  
Suite 1600  
Chicago, IL 60661-3693  
Tel 312.902.5200  
Fax 312.902.1061

575 Madison Avenue  
New York, NY 10022-2585  
Tel 212.940.8800  
Fax 212.940.8776

2029 Century Park East  
Suite 2600  
Los Angeles, CA 90067-3012  
Tel 310.788.4400  
Fax 310.788.4471

1025 Thomas Jefferson St., N.W.  
East Lobby, Suite 700  
Washington, DC 20007-5201  
Tel 202.625.3500  
Fax 202.298.7570

401 South Tryon Street  
Suite 2600  
Charlotte, NC 28202-1935  
Tel 704.444.2000  
Fax 704.444.2050

260 Sheridan Avenue  
Suite 450  
Palo Alto, CA 94306-2047  
Tel 650.330.3652  
Fax 650.321.4746

One Gateway Center  
Suite 2600  
Newark, NJ 07102-5397  
Tel 973.645.0572  
Fax 973.645.0573