

Client Advisory

November 2000

European Union Identifies Potential U.S. Products For \$4 Billion in Sanctions

On November 17, 2000, the European Union (“EU”) requested that the World Trade Organization (“WTO”) permit retaliatory sanctions against U.S. exports and released a list of 47 tariff chapters eligible for sanctions in the dispute involving Foreign Sales Corporations (“FSCs”). A list of the tariff chapters proposed for sanctions is set forth below. President Clinton signed the “FSC Repeal and Extraterritorial Income Exclusion Act of 2000” (H.R. 4986) into law on November 15, 2000 in order to modify U.S. tax law and implement the findings of a WTO dispute panel which concluded that FSCs constitute an export subsidy in violation of international trade rules. However, the EU believes that H.R. 4986 failed to remedy the essential problem of FSCs providing a tax exemption on income derived from export sales on goods manufactured with more than 50% of U.S. content.

In order to preserve its right to impose 100% retaliatory duties, the EU issued a list of product groups that are potential targets for sanctions from which specific items classified within those tariff chapters will be chosen. Additionally, the EU requested that a WTO panel review the new FSC law to assess whether it complies with international trade rules. After the WTO panel reviews the new FSC law, it will decide whether the EU may impose retaliatory sanctions. The EU will then decide which products may be subject to 100% duties by issuing a list of specific tariff provisions covering those products. Since the amount of compensation that the EU is seeking is large (*i.e.*, \$4.043 billion), many products may be included in the final sanctions list.

A final decision from the WTO authorizing the EU to impose retaliatory sanctions is expected mid-2001. Companies with products in these tariff chapters should contact KMZ Rosenman to continue monitoring the progress of this dispute.

Indicative List of Products

CN Chapters	Description
1	Live animals
2	Meat and edible meat offal
4	Dairy produce; birds' eggs; natural honey; edible products of animal origin, not elsewhere specified or included
5	Products of animal origin not elsewhere specified or included
7	Edible vegetables and certain roots and tubers
8	Edible fruit and nuts; peel of citrus fruits or melons
10	Cereals
11	Products of the milling industry; malt; starches; inulin; wheat gluten
12	Oil seeds and oleaginous fruits; miscellaneous grains, seeds and fruit; industrial or medical plants; straw and fodder
15	Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes
16	Preparations of meat, fish or crustaceans, molluscs or other aquatic invertebrates
17	Sugars and sugar confectionery
19	Preparations of cereals, flour, starch or milk; pastrycooks' products
20	Preparations of vegetables, fruit, nuts or other parts of plants
21	Miscellaneous edible preparations
23	Residues and waste from the food industries; prepared animal fodder
33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations
34	Soaps, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or souring preparations, candles and similar articles, modelling pastes,"dental waxes" and dental preparations with a basis of plaster
35	Albuminous substances; modified starches; glues; enzymes
41	Hides and skins (other than fur skins) and leather
42	Articles of leather; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut)
43	Fur skins and artificial fur; articles thereof

44	Wood and articles of wood; wood charcoal
48	Paper and paperboard; articles of paper pulp, paper or paperboard
49	Books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans
51	Wool, fine and coarse animal hair; yarn and fabrics of horsehair
52	Cotton
54	Man-made filaments
57	Carpets and other textile floor coverings
61	Articles of apparel and clothing accessories, knitted or crocheted
62	Articles of apparel and clothing accessories, not knitted or crocheted
63	Other made up textile articles; sets; worn clothing and worn textile articles; rags
64	Footwear, gaiters and the like; parts of such articles
69	Ceramic products
70	Glass and glassware
71	Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal, and articles thereof; imitation jewellery; coins
72	Iron and steel
73	Articles of iron or steel
74	Copper and articles thereof
76	Aluminium and articles thereof
82	Tools, implements, cutlery, spoons and forks, of base metal; parts thereof of base metal
83	Miscellaneous articles of base metal.
84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof
85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles
88	Aircraft, spacecraft, and parts thereof
95	Toys, games and sports requisites; parts and accessories thereof

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