# Trade World UTAH

**March/April 2005**

## Calendar of Events

**March 18** **World Trade Association Luncheon: "Russia & the U.S.: Clash or Dialogue?"**

**12:00pm-1:30pm** Little America Hotel & Towers
500 South Main Street, Salt Lake City, UT 84101

**Speaker:** Ross E. "Rusty" Butler, Jr.
Associate Vice President for International Affairs
Director, National Presidential Advisory Board Utah Valley State College

**Cost:** Non-Member rate: $30.00 (to include both the presentation and lunch).
Paid-Members: Depends on your membership status.
For membership information, please email us at utahworldtrade@msn.com.

**RSVP:** To RSVP, please call Jennifer at the Global Management Center at 801-422-6495 between the hours of 1:00 and 5:00 pm, and be ready with your 1) Name, 2) Company, 3) email address and 4) phone number. Or email the preceding information to utahworldtrade@msn.com.

## Trade World Utah newsletter going electronic!

As of September 2005, the Trade World Utah newsletter will be published in electronic format ONLY. If you would like to continue receiving this publication after September 2005, the Salt Lake City Export Assistance Center needs your e-mail address! To ensure receipt of future newsletters via e-mail, please send your e-mail address to David.Fiscus@mail.doc.gov. Alternatively, please fax this page with the following information to the Salt Lake City Export Assistance Center at 801/524-5886:

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# Trade Resources

## FOREIGN SALES CORPORATION (FSC) GUIDANCE- UPDATE

- On January 31, the EU Council of Ministers approved a repeal of the FSC tariffs. (Council Regulation (EC) 171/2005 is attached for your information.)

- Removal of the sanctions is retroactive to January 1, 2005.

- The EU has kept the condition that it could re-impose punitive tariffs if the WTO supports its complaint about tax breaks remaining in US legislation still being WTO-incompatible. A WTO finding in the case is not expected until the fall of this year.

- We do not yet have information on how the repeal will actually be applied (ie. timing of reimbursement for duties paid, etc.)

## BACKGROUND REGARDING THE RE-IMPOSITION OF TARIFFS BY THE EUROPEAN UNION

The European Commission is unhappy with the transition/grandfathering provisions in the U.S.'s new law abolishing the FSC/ETI tax incentives. The Commission intends to take the case back to the WTO and ask for a ruling that the changes are not consistent with the original WTO panel decision that the FSC/ETI arrangement violated the WTO ruling. The grandfathering provisions only leave in place about one percent of the benefits from the FSC/ETI legislation, and most of the remaining benefits will be phased out over two years.

Council Regulation (EC) 171/2005 suspends current sanctions being applied against U.S. exports in the FSC dispute, but indicates that sanctions will be automatically re-imposed at a level of 14 percent on a somewhat reduced list of products on January 1, 2006, or 60 days after a WTO panel rules that the recent FSC repeal legislation falls short of WTO consistency, whichever is later.

## BACKGROUND ON THE TRADE DISPUTE BETWEEN THE UNITED STATES AND THE EUROPEAN UNION

In 1972, seeking to redress tax disadvantages faced by U.S. companies exporting or operating overseas, the United States enacted the Domestic International Sales Corporation (DISC) provisions to the U.S. Internal Revenue Code, which allowed U.S. firms to defer taxation on a percentage of their export profits. The European Commission challenged the DISC provisions in the General Agreement on Tariffs and Trade (GATT), the pre-cursor to the World Trade Organization (WTO), on the grounds that it constituted an illegal export subsidy. The United States brought a counter-challenge against several European tax regimes as well. In 1984, the United States repealed the DISC provisions and enacted the FSC provisions in order to comply with GATT rulings on the matter.

In 1997, the EU brought a case against the FSC provisions in the WTO. In 1999, a WTO panel ruled that the FSC provisions provided an export subsidy, which violated WTO rules. After attempting an appeals process, the United States enacted the FSC Repeal and Extraterritorial Income Exclusion Act, in November 2000, which was designed to comply with WTO rules and to ensure that U.S. companies would not be disadvantaged in foreign markets. However, the EU also challenged this act and gained support when a WTO panel ruled that these new provisions were still in violation of WTO rules.

In 2000, the EU requested authorization from the WTO to impose trade sanctions on $4.043 billion worth of U.S. exports, and in August 2002, the WTO agreed. The EU gave the United States a deadline of March 1, 2004 to repeal the ETI provisions from its tax code or face sanctions, to which the U.S. did not comply. Since the imposition of the trade sanctions last year, Congress has worked towards repealing the FSC/ETI provisions in order to achieve U.S. compliance with the WTO ruling. The EU initially imposed an additional duty of five percent on 1,608 U.S. products. Thereafter, the duty was scheduled to rise automatically each month by one percentage point until U.S. compliance was deemed satisfactory.

# Trade Resources

## CHOOSING A CROSS-BORDER PARTNER IN MEXICO

*Selections taken from the article entitled "Cross-Border Partners Selection" in* MexLink *by W.F. Hay of Bill Hay International*

Moving freight across U.S. and Mexican borders can be difficult if you don't align yourself with the right partner and establish solid relationships. *Here are a few suggestions to help you select your cross-border partners.*

To effectively ship across borders, you may need to *select up to as many as five providers*:

- A U.S. carrier that—for the most part—will allow their trailer to be interlined into Mexico
- A Mexican carrier that is authorized to pull U.S. carrier's equipment.
- A U.S. customs broker
- A Mexican customs broker/freight forwarder
- A cross-border drayage company

Because Mexican law requires that U.S. carriers work through Mexican-based partners, *look into using logistics organizations that have the capabilities to coordinate all the transportation required for cross-border shipments*. These companies have most likely already done the homework for you.

If you have set up a distributor, manufacturer, or some other type of facility in Mexico, you will need to *establish a strong working relationship with customs brokers on both sides of the border*. If you are shipping to a Mexican buyer, the odds are 99 to 1 that they already have their own Mexican customhouse broker since they are responsible for payment of any Customers duties and all import brokerage related fees. Your responsibility is to prepare complete and accurate export documentation.

*Ask questions and find out what the core competencies are of the partner you've chosen*. Are you planning to ship through the Nogales, AZ gateway, but your logistics partner only handles freight through Laredo, TX? Maybe you are you trying to move flat beds, but you deal with someone who only handles vans.

Since 9-11, U.S. Customs and Homeland Security have implemented *several programs to speed up border crossings*. Look into participating in programs such as:

- CIP (Carrier Initiative Program)
- BASC (Business Anti-Smuggling Coalition)
- C-TPAT (Customs Trade Partnership Against Terrorism)
- FAST (Free and Secure Trade System)

*Your customs broker should be able to give you the status on your shipment when it is at the border*. They should be able to tell you if there is anything you need to do (missing documentation, product description, communication with consignee to pay duties, etc.). Your logistics partner should also be able to give you status reports and let you know if any trailer detention applies while the load is at the border.

*You should receive written rate quotations for transportation costs*. It should include the door-to-door line haul charges and any accessorial service charges such as team drivers, tarps, and permits for over dimensional loads and stop off charges. Also, ask your customhouse broker for a written estimate of expenses.

*Shippers are encouraged to purchase Mexican cargo insurance regardless of F.O.B. terms.* Cargo pilferage, theft, and damage on Mexican highways are unfortunate, yet they do occur. Under Mexican law, Mexican carrier's cargo liability is limited to $200.00 regardless of shipment value or weight. Cargo insurance policies may include not only the commercial invoice value of the shipment, but also the door-to-door transportation charges as well. Depending upon the underwriter, costs will probably range from a few cents per $100.00 value up to 5% of the total commercial invoice value. The provider should issue a certificate of Mexican cargo insurance.

*Effective and timely communication between parties is essential*. Mexican logistics involves the integration of several different elements into a comprehensive network of innovative strategies and systems that lead to complete strategic supply chain solutions.

**UNITED STATES – AUSTRALIA FREE TRADE AGREEMENT**
The United States - Australia Free Trade Agreement (FTA) entered into force on January 1, 2005. More than 99 percent of U.S. manufactured goods exports to Australia have immediately become duty free. Australia is a large and growing trade and investment partner of the United States. It purchases more goods from the United States than from any other country. For more information, go to: http://www.tcc.mac.doc.gov and click on "View Trade Agreements" then "Free Trade Agreements".

**ONE-YEAR VISA BETWEEN THE UNITED STATES AND CHINA**
As of January 25, a new agreement between the United States and China allows tourists and business executives to travel between the U.S. and China under a single visa for 12 months instead of seeking new visas for each trip. The change in policy is expected to dramatically improve U.S. manufacturers' abilities to sell goods and services to their customers in China and create jobs for Americans, according to U.S. House of Representatives Small Business Committee Chairman Don Manzullo. For details, go online at www.house.gov/smbiz/

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