

## Chapter 16

# Import Regulations, Trade Intermediaries, and Services

### *IMPORT RESTRICTIONS IN THE UNITED STATES*

#### *Tariffs*

All goods imported into the United States are subject to duty or duty-free entry, depending on their classification under the applicable tariff schedule and their country of origin. For dutiable products, three different methods are used to levy tariffs:

1. *Ad valorem duty*: The duty levied is a percentage of the value of the imported product. It is the type of duty most often applied. An example would be a 2 percent ad valorem on imports of leather shoes. The duty obligation is proportional to the value of the dutiable cargo and bears no relation to the quantity imported.
2. *Specific duty*: This duty rate is based on the physical unit or weight or other quantity. Such duty applies equally to low- and high-priced goods. To the extent that the same duty rate is applied to similar goods with different import prices, specific duties tend to be more restrictive of low-priced goods. When the price of imports rises, the rate remains unchanged, and, subsequently, the effect of the specific duty declines. Examples would be a \$9.00 per ton (wheat) or \$2.50 per dozen (fountain pens) charges.
3. *Compound duty*: Compound duty combines both ad valorem and specific duty. An example would be \$2.00 per pound and 4 percent ad valorem (chicken imports).

Most merchandise imported into the United States is dutiable under the most-favored-nation (MFN) rate. The MFN principle is expressed in Article I of the GATT and in a number of bilateral and other treaties. Under this principle, any advantage or favor granted by the United States (a member of the GATT) to any import originating from any other country shall be accorded, unconditionally, to the like product originating from all other GATT/WTO members. If the MFN treatment is provided as a result of a bilateral treaty (MFN treatment for goods from China, not a member of the GATT/WTO), an obligation arises to treat imports from that country as favorably as imports from any other member of the GATT/WTO. Certain communist countries, such as Cuba and North Korea, are not accorded MFN status and thus denied the benefit of the low rates of duty resulting from trade agreements entered into by the United States.

### *Nontariff Barriers*

Even though most goods freely enter the United States, there are some restrictions on the importation of certain articles (see International Perspective 16.1 and Tables 16.1 and 16.2). The rules prohibit or limit the entry of some imports, limit entry to certain ports, restrict routing, storage, or use, or require treatment, labeling, or processing as a condition of release from

## **INTERNATIONAL PERSPECTIVE 16.1. Consumer Products and Import Restrictions in the United States**

### **Products or product categories with no import restrictions**

Ceramic tableware, artwork, crafts, gems and gemstones, glass and glass products, household appliances, jewelry and pearls, leather goods that are not from endangered species, metals, musical instruments, optics and optical instruments, paper and paper products, plastics and plastic products, rubber and rubber products, sporting goods, tools, and other utensils.

### **Products or product categories subject to certain restrictions or requirements**

Aerospace products, live animals and animal products, beverages, chemicals, combustibles, cosmetics, drugs and explosives, foods, radioactive and radio frequency devices, used merchandise, vehicles.

### **Products or product categories that are generally prohibited**

Food products grown or produced in disease-ridden regions, products derived from endangered species, products that infringe intellectual property rights, obscene or pornographic materials as well as national treasures.

TABLE 16.1. Import Permits/Other Requirements and Respective Government Agencies

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<i>Agricultural commodities</i>	
<ul style="list-style-type: none"> <li>• Cheese, milk and dairy products, fruits and vegetables, meat and meat products (from sources other than cattle, sheep, swine goats, and horses), plant and plant products</li> </ul>	U.S. Department of Agriculture (USDA) and The Food and Drug Administration (FDA)
<ul style="list-style-type: none"> <li>• Insects, livestock and animals, meat and meat products (from cattle, sheep etc.), plant and plant products, poultry and poultry products, seeds</li> </ul>	USDA
<i>Arms, ammunition, and radioactive materials</i>	Department of State and Department of the Treasury
<ul style="list-style-type: none"> <li>• Arms, ammunition, explosives, and implements of war</li> </ul>	
<i>Consumer and electronic products</i>	
<ul style="list-style-type: none"> <li>• Household appliances such as washers, dryers, air conditioners, refrigerators, heaters, etc.</li> </ul>	U.S. Department of Energy
<ul style="list-style-type: none"> <li>• Flammable fabrics</li> </ul>	U.S. Consumer safety Commission
<ul style="list-style-type: none"> <li>• Electronic products such as microwave ovens, X-ray equipment, TV receivers</li> </ul>	FDA
<i>Foods, drugs, cosmetics, and medical devices</i>	
<ul style="list-style-type: none"> <li>• Foods and cosmetics</li> </ul>	FDA
<ul style="list-style-type: none"> <li>• Biological drugs</li> </ul>	FDA
<ul style="list-style-type: none"> <li>• Biological drugs for animals</li> </ul>	USDA
<ul style="list-style-type: none"> <li>• Narcotic drugs and derivatives</li> </ul>	U.S. Department of Justice (USDJ)
<ul style="list-style-type: none"> <li>• Pesticides and toxic substances</li> </ul>	U.S. Customs
<i>Textile, wool, and fur products</i>	Federal Trade Commission
<i>Wildlife and pets</i>	U.S. Department of the Interior
<i>Motor vehicles and boats</i>	U.S. Department of Transportation
<i>Alcoholic beverages</i>	FDA
All bottle jackets made of plant materials	USDA
<i>Administering agency for quotas, tariff quotas on imports</i>	U.S. Customs

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Source: U.S. Department of Commerce, 2003

TABLE 16.2. Import Barriers in Selected Countries

Country	Tariffs	Nontariff Barriers
<i>Brazil</i>	Average tariff about 12 percent ad valorem. As member of MERCOSUR, external tariff will range from 0 to 35 percent. High tariffs in certain protected sectors such as autos, textiles, and computers.	Onerous registration requirements for all importers. A variety of customs-related nontariff barriers/requirements for imported food and fees for such imports and medical and pharmaceutical products. Sanitary, photo-sanitary requirements for agricultural imports. Subsidies provided for many export products. Inadequate protection and enforcement of certain intellectual property rights.
<i>Canada</i>	Average tariff is 4 to 6 percent ad valorem. Tariff increases as goods become more processed. High tariffs on agri-food, boats etc. No or low tariffs for U.S. and Mexican products.	Cost of service mark-ups and other barriers to imports of wines and spirits. Import license required for certain commodities. Tariff quotas on dairy products, poultry, eggs, and barley products. Subsidies to agriculture, aircraft; use of sanitary and photo-sanitary measures. Use of tariff quotas, import licenses for certain exports.
<i>Germany</i>	Tariffs range from 4 to 17 percent. Raw materials enter with higher rates.	Regulations that hinder the importation of agricultural and biotechnology products. Restrictions on the entry of beef, poultry, dry pet food, hides and skin. Local buying preferences, restrictive packaging, food and drug trademark laws. Certification for wines.
<i>Japan</i>	Average tariff 2 percent ad valorem. Tariffs high on certain imports such as agricultural products, semi-manufactures, etc.	Slow and cumbersome import clearance procedures, product standards, and testing and certification requirements. Highly regulated, inefficient distribution system. Market access impediments in telecommunications, e-commerce. Inadequate protection and enforcement of certain intellectual property rights.

customs. U.S. nontariff barriers fall into the following categories (U.S. Department of Commerce, 2003):

### *Prohibited Imports*

These imports include certain narcotics and drug paraphernalia (materials used to make or produce drugs); counterfeit articles; products sold in violation of intellectual property rights; obscene, immoral, and seditious matter; and merchandise produced by convicts or forced labor.

### *Imports Prohibited Without a License*

These include arms and ammunition, and products from certain countries such as Cuba, Iran, and North Korea.

### *Imports Requiring a Permit*

Such imports include alcoholic beverages, animal and animal products, plant products, and trademarked articles. For example, all commercial shipments of meat and meat food products offered for entry into the United States are subject to the regulations of the Department of Agriculture and must be inspected by the USDA Inspection Service before release by customs.

### *Imports with Labeling, Marking, and Other Requirements*

Certain imports require special labeling. For example, wool and fur products must be tagged, labeled, or otherwise clearly marked to show the importer's name and other required information. All goods imported must be marked individually with the name of the country of origin in English.

### *Imports Limited by Absolute Quotas*

These imports include dairy products, animal feed, chocolate, some beers and wines, textiles and apparel, cotton, peanuts, sugars, syrups, molasses, cheese, and wheat.

### *Imports Limited by Tariff Quotas*

The tariff rates on these imports are raised after a certain quantity has been imported. This applies to cattle, whole milk, motorcycles, certain kinds of fish, and potatoes. Tariff quotas permit a specified quantity of merchandise

to be entered or withdrawn for consumption at a reduced rate during a specified period. When imported merchandise exceeds a tariff quota, the importer is not allowed to commingle the merchandise and classification with non-quota class goods.

### *The Buy-American Act 1933*

This act provides for the purchase of goods by the U.S. government (for use within the country) from domestic sources unless they are not of satisfactory quality, or too expensive, or not available in sufficient quantity. The procurement regulations allow for the purchase of domestic goods even though they are more expensive than competing foreign merchandise, insofar as the price differential does not exceed six percent (12 percent in high-unemployment areas) in favor of domestic goods.

## **U.S. FREE TRADE AGREEMENTS**

One of the prominent exceptions to the MFN principle of nondiscrimination in the treatment of imports is that of free-trade areas and other preferential arrangements. This means that imports from countries with which the U.S. has free trade or similar arrangements are accorded low- or duty-free status (see International Perspective 16.2).

### *The U.S./Israel Free Trade Agreement (FTA, 1985)*

The agreement provides for free or low rates of duty for merchandise imports from Israel in so far as the imports meet the rules of origin requirements. For the preferential tariff rate, the product must be grown, produced, or manufactured in Israel, and imported directly into the United States, and the cost or value of the materials produced in Israel plus the direct costs of processing operations in Israel must be no less than 35 percent of the import value.

### *The North American Free Trade Agreement (NAFTA, 1994)*

The North American Free Trade Agreement eliminates tariffs on most goods originating in Canada, Mexico, and the United States over a maximum transition period of fifteen years (i.e., 2008). For most of Mexico–U.S. trade, NAFTA eliminated existing duties immediately and/or agreed to phase them out over a period of five to ten years. On a few sensitive items, the agreement will phase out tariffs over fifteen years. The NAFTA duty treatment is applicable only to goods wholly produced or obtained in the NAFTA region, that is, goods produced in the NAFTA region wholly from originating materials.

**INTERNATIONAL PERSPECTIVE 16.2.  
U.S. Free Trade Agreements (USFTAs)**

**Global**

WTO

**Regional**

NAFTA

APEC

**Bilateral**

Australia FTA

Bahrain FTA

Chile FTA

CAFTA-DR

Colombia FTA

Israel FTA

Jordan FTA

Malaysia FTA

Morocco FTA

Oman FTA

Panama FTA

Peru FTA

Malaysia FTA

Singapore FTA

SACU FTA

WTO: World Trade Organization; APEC: Asia-Pacific Economic Cooperation; FTA: Free trade agreement.

Goods processed or assembled from imported merchandise must contain 60 percent regional value content (transaction value method) or 50 percent value content using the net cost method.

***U.S./Australia Free Trade Agreement (USAFTA, 2004)***

The USAFTA, 2004, (implemented on January 11, 2005) provides for the elimination of tariffs on more than 97 percent of Australia’s nonagricultural exports (as well as two-thirds of U.S. tariffs on agricultural products) on the day the agreement takes effect. Remaining U.S. tariffs on Australian exports will be phased out over periods of ten and eighteen years. The agreement also provides for annual increases in quotas for Australian exports of

beef and dairy products. It outlines rules for determining the origin of goods being traded in order to establish eligibility. The agreement determines “an originating good” as one that is (1) wholly obtained or produced entirely in the country, (2) wholly produced from originating materials, or (3) produced in the country partly from non-originating materials.

The agreement covers other areas such as cross-border trade in services, electronic commerce, investment, protection of intellectual property rights, competition policy, government procurement, labor, and environmental standards, as well as provisions for dispute settlement.

### ***Free Trade with Central America and the Dominican Republic (CAFTA-DR), 2004***

The United States signed CAFTA-DR with five Central American countries (Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua) and the Dominican Republic in August 2004. These countries make up the second largest U.S. export market in Latin America, behind Mexico. The agreement provides for the elimination of customs duties on originating goods traded between the parties. Duties on most tariff lines covering industrial and consumer goods will be eliminated as the agreement enters into force. Duties on other goods are to be phased out during a ten-year period. Apparel made in these countries will be duty and quota free if they use U.S. or regional fabric and yarn. Additional access is also provided for their sugar exports to the United States through modest increases in quotas.

## ***U.S. TRADE PREFERENCES***

### ***Generalized System of Preferences (GSP)***

The GSP is a special arrangement by developed nations, agreed under the United Nations, to provide special treatment for imports from developing nations to encourage their economic growth. Under the GSP, tariff exemptions and reductions are provided by industrialized countries on a specified range of commodities exported from developing nations. The GSP scheme was first implemented in the United States in 1976 when the government specified some 2,700 articles that were to receive duty-free treatment if imported from 140 designated developing nations. The scheme has been extended since, with certain modifications and limitations.

Imports from eligible countries are subject to tariff exemptions or reductions if:

1. The merchandise is destined to the United States without contingency for diversion at the time of exportation,
2. The cost or value of materials produced in the beneficiary country and/or the direct cost of processing performed is no less than 35 percent of the appraised value of the goods, and
3. The United Nations (United Nations Conference on Trade and Development) certificate of origin is prepared and signed by the exporter and filed with the entry of the goods.

There are two important limitations to the application of the GSP. First, the president is required to suspend GSP eligibility on imports of specific article from a particular country when the latter supplied more than \$25 million in value of the article during the previous calendar year or over 50 percent of the value of U.S. imports. Since the \$25 million limitation was based on the GDP of 1974, appropriate adjustments are made in light of the GDP for the current year. Such limitations do not apply to an eligible least-developed country. Second, the provision of GSP is restricted for the more advanced developing nations. For example, many products from countries such as Israel, Korea, Singapore, and Taiwan were graduated from GSP duty-free treatment.

### ***The Caribbean Basin Initiative (CBI)***

The CBI is a program intended to provide duty-free entry of goods from designated Caribbean and Central American nations to the United States. The program was implemented in 1984 and has no expiration date. For CBI duty-free treatment, the merchandise must be wholly produced or substantially transformed in the beneficiary country, be destined to the United States without contingency for diversion at the time of exportation, and meet the 35 percent value-added requirement similar to the GSP scheme. Value attributable to Puerto Rico, the U.S. Virgin Islands, and the U.S. customs territory may be counted toward the 35 percent value-added requirement. In the latter case, the attributable value is counted only up to a maximum of 15 percent of the appraised value of the imported article.

The United States–Caribbean Basin Trade Partnership Act (CBTPA, 2000) expands the trade benefits currently available to Caribbean and Central American countries under the CBI. Except for textile and apparel articles, the CBTPA allows tariff treatment similar to NAFTA for goods excluded from the CBI program (watches, footwear, petroleum products, etc.). Apparel

articles assembled in one or more CBTPA beneficiary countries from U.S. or regional fabric or yarn are eligible for duty/quota-free treatment when they enter the United States.

The trade benefits under CBTPA are expected to end in 2008 or the date on which a free trade agreement is concluded between the U.S. and beneficiary countries.

### *The Andean Trade Preference (ATP)*

This program was enacted in 1991 in order to provide duty-free treatment for imports of merchandise from designated beneficiary countries (Bolivia, Colombia, Ecuador, and Peru) to the United States. The eligibility requirements are similar to the CBI. It expired in 2001 and was renewed as part of the Trade Act of 2002. The new program “The Andean Trade Promotion and Drug Eradication Act” provides the same benefits as the ATP. It, however, extends the program by 700 additional products.

A similar arrangement was also made with Marshall Islands and the Federated States of Micronesia in 1989 and has no expiration date.

### *The African Growth and Opportunity Act (AGOA, 2000)*

The AGOA was signed into law in May 2000. It is intended to offer beneficiary countries from sub-Saharan Africa duty-free treatment on more than 1,800 items that are exported to the United States. This is in addition to the standard GSP list of approximately 4,600 items. The program also provides duty and quota exemptions on their exports of textile and apparel products to the U.S. market.

The AGOA benefits are extended to countries that are GSP eligible under the existing criteria. Beneficiary countries are also exempted from competitive need limitations, that is, preferential treatment is not suspended if a country is competitive in the production of the item.

As of January 2005, thirty-seven of the forty-eight sub-Saharan countries were designated as AGOA beneficiaries. The AGOA was amended in 2002 and 2004. The latest revision (AGOA III of 2004) extends preferential treatment for beneficiary countries until 2015.

## **TRADE INTERMEDIARIES AND SERVICES**

### *Customs Brokers*

Customs brokers are persons who act as agents for importers for activities involving transactions with the customs service concerning (1) the

entry and admissibility of merchandise, (2) its classification and valuation, and (3) the payment of duties and other charges assessed by customs or the refund or drawback thereof. A customs broker could be an individual, partnership, or corporation licensed by the U.S. Department of the Treasury. Finding an honest and knowledgeable broker is crucial to the success of an import firm (see International Perspective 16.3).

Dishonest brokers have, for example, been known to make incorrect entries at higher rates of duty and to bill the importer and later seek and pocket the refund. Brokers' failure to make timely filing can be costly to the importer (Serko, 1985).

### *Duties and Responsibilities of Customs Brokers*

*Record of transactions.* Customs brokers are required to keep a correct and itemized record of all financial transactions and supporting papers for at least five years after the date of entry. Such books and papers must be available for inspection by officials of the Treasury Department. Brokers are required to make a status report of their continuing activity with customs. A triennial status report and fee must be addressed to the director of the port through which the license was delivered to the licensee.

*Responsible supervision.* Licensed brokers must exercise responsible supervision and control over the transaction of the customs business. A broker must provide written notification to customs within thirty days after terminating any employee hired for more than thirty consecutive days.

*Diligence in correspondence and paying monies.* Each licensed broker is required to exercise due diligence in making financial statements, in answering correspondence, and in preparing and filing records of all customs transactions. Payments of duties and other charges to the government are to

### **INTERNATIONAL PERSPECTIVE 16.3. Criteria for Selecting the Right Customs Broker or Freight Forwarder**

- Competitive rate
- Knowledge of the product
- Reputation/integrity
- Service and flexibility
- IT capability
- Account management, financial stability
- Networking capability

be made on or before the date that payments are due. Any payment received by a broker from a client after the due date is to be transmitted to the government within five working days from receipt by the broker. A written statement should be made by the broker (to the client) accounting for funds received for the client from the government, as well as those received from the client when no payment has been made or received from a client in excess of charges properly payable within sixty days after receipt.

*Improper conduct.* The regulations prohibit the filing of false information, the procurement of information from government records to which access is not granted, the acceptance of excessive fees from attorneys, or the misuse of a license or permit. The licensee of a broker that is a corporation/association can be revoked if it fails for 120 continuous days to have at least one officer who holds a valid broker license.

### *License Requirements*

To obtain a customs broker license, an individual must be (1) a citizen of the United States (but not an officer or employee of the United States), (2) at least twenty-one years of age, (3) of good moral character, and (4) able to pass an examination to determine that he or she has sufficient knowledge of customs and related laws.

To obtain a broker's license, a partnership or corporation must have one member who is a licensed broker and must establish that the customs transactions are performed by a licensed member or a qualified employee under the supervision and control of the licensed member. Disciplinary action for infractions, such as making false or misleading statements in an application for a license, conviction after filing of a license application, violation of any law enforced by the customs service, and so on, could result in a monetary penalty as well as the revocation or suspension of a license or permit.

A license is not required to transact customs business by the exporter or importer on his or her own account. This also extends to authorized employees or officers of the exporter/importer or customs broker. A license is also not required by a person transacting business in connection with the entry or clearance of vessels or by any carriers bringing merchandise to port. A broker who intends to conduct customs business at a port within another district for which he or she does not have a permit must submit an application for a permit to the director of the relevant port.

### *Free-Trade Zones*

Free-trade or foreign trade zones (FTZ) are areas usually located in or near customs ports of entry and legally outside the customs territory of the United

States. Foreign goods brought into these zones may be stored, broken up, sorted, or otherwise manipulated or manufactured. While conducting these operations, duty payments are delayed until products officially enter into the customs territory.

Merchandise may be admitted into an FTZ upon issuance of a permit by the district director, unless the merchandise is brought in solely for manipulation after entry, is transiting the FTZ (for which a permit is granted), or is domestic merchandise.

The FTZs are operated as public utilities under the supervision of the Foreign Trade Zones Board, which is authorized to grant the privilege of establishing a zone. Regulations are issued by the board covering the establishment and operation of FTZs. The board, which is composed of the Secretary of Commerce (chairperson), the Secretary of the Treasury, and the Secretary of the Army, evaluates applications by public and private corporations for a zone based on the following criteria: the need for zone services in the area, suitability of the site and facilities, justification in support of a zone, extent of state and local government support, views of persons or firms to be affected, as well as regulatory policy and other applicable economic criteria. The board also accepts applications for subzones, that is, special-purpose zones established as adjuncts to a zone for a limited purpose. Such zones are single-user facilities, usually accommodating the manufacturing operations of an individual firm at its plant. Every port of entry is entitled to at least one FTZ (Rossides, 1986; U.S. Department of Commerce, 1998, 2003).

### *Economic Advantages*

- Merchandise admitted into the zone is not subject to customs duty until it is admitted into the customs territory. There is no time limit as to the storage or handling of the merchandise within the zone.
- Businesses can import a product subject to a high rate of duty and manipulate and manufacture it into a final product that is classified under a lower rate of duty when imported into the customs territory. Importers can also bring in products for display to wholesalers or items restricted under a quota until the next quota period. A quota item may also be transformed in an FTZ into an item that can be freely imported without quota restrictions.
- The importer can establish the duty of foreign merchandise when entered into a zone by applying for a “privileged status.” Under this scheme, only the duty previously fixed is payable upon entry of the merchandise into the customs territory at a later date even though its

conditions may have changed or resulted in an article subject to a higher rate of duty.

- Duties are paid only on the actual quantity of such foreign goods incorporated in merchandise transferred from a zone of entry into the customs territory. This means that allowances are made for any unrecoverable waste resulting from manufacture or manipulation, thereby limiting the duty to articles actually entered. Savings in duties and taxes may thus result from moisture taken out or dirt removed, and so on. Savings in shipping and taxes may also be possible from shipping unassembled parts into a zone for assembly.
- Merchandise may be remarked or reconditioned to conform to certain requirements for entry into the customs territory.

The popularity of FTZs has grown not only in the United States but also in different parts of the world. By 1998, the number of such zones in the United States exceeded 200. Similar growth in the number of FTZs is observed in Africa, Asia, and Eastern Europe. A substantial part of the merchandise (over 80 percent) entered under FTZs in the United States is imported into the United States for domestic consumption, while the rest is exported to foreign markets.

### ***Bonded Warehouses***

Bonded warehouses are secured, U.S. customs approved warehouse facilities in which imported goods are stored or manipulated without paying duty until the goods are removed and entered for consumption. Duty is not payable when goods under bond are exported, destroyed under customs supervision, or withdrawn as supplies for vessel or aircraft. Merchandise may be kept in the warehouse for up to five years from the date of importation. The advantages of a bonded warehouse are quite similar to those of FTZs.

Any person desiring to establish a bonded warehouse must submit an application to the district director where such facility is located. On approval of the application, a bond is executed to protect the duty liability. Customs regulations provide for different types of bonded warehouses.

The major differences between a bonded warehouse and an FTZ are as follows: (1) costs for the use of bonded warehouses are generally less than for FTZs, (2) bonded warehouses may be established on a user's facilities and with a limited degree of difficulty as compared with FTZs, and (3) the permitted types of manipulation are more limited in the case of a bonded warehouse than for an FTZ. For example, goods may be stored or otherwise manipulated in a bonded warehouse as long as the process does not involve

manufacturing. The assembly of watch heads by combined domestic and foreign components is a manufacture (not a manipulation) prohibited under customs regulations. However, the repackaging of spare watch parts is a manipulation that is allowable.

## **CHAPTER SUMMARY**

### ***Tariffs and Nontariff Barriers as Import Restrictions***

#### *Methods of Levying Tariffs*

1. *Ad valorem*: Duty based on value of the imported product
2. *Specific*: Duty based on quantity or volume
3. *Compound*: Duty that combines both ad valorem and specific

#### *Nontariff Barriers*

Nontariff barriers include quotas, tariff quotas, labeling requirements, licensing requirements, prohibiting the entry of certain imports, and requirements to purchase domestically produced goods.

#### ***Preferential Trading Arrangements***

NAFTA, U.S./Israel FTA, U.S./Australia FTA, the Caribbean Basin Initiative, Andean Trade Preference, the Generalized System of Preferences, AGOA.

### ***Trade Intermediaries and Services***

Customs brokers, free-trade zones, and bonded warehouses.

#### *Customs Brokers*

Customs brokers act as agents for importers with regard to (1) the entry and admissibility of merchandise, (2) its classification and valuation, and (3) the payment of duties and other charges assessed by customs or the refund or drawback thereof.

*Free-Trade Zones*

Free-trade zones are certain designated areas, usually located in or near a customs port of duty, where merchandise admitted is not subject to a tariff until it is entered into the customs territory. Foreign goods brought into an FTZ may be stored, or otherwise manipulated or manufactured. The FTZs are legally considered to be outside the customs territory of a country.

*Bonded Warehouses*

Bonded warehouses are secured, government-approved warehouse facilities in which imported goods are stored or manipulated without payment of duty until they are removed and entered for consumption.

**REVIEW QUESTIONS**

1. What are the different ways in which tariffs are levied in the United States?
2. What are the various types of nontariff barriers imposed in the United States?
3. What is the difference between “imports requiring a permit” and “imports prohibited with out a license”? Provide examples.
4. Does the U.S.–Israeli agreement eliminate all trade barriers between the two countries?
5. Discuss the U.S. GSP and conditions for eligibility.
6. Does AGOA allow free trade in textiles and apparel?
7. What is the difference between a customs broker and freight forwarder?
8. Discuss the duties and responsibilities of a customs broker.
9. What is a free trade zone? How does it differ from a bonded warehouse?
10. Discuss some of the economic advantages of free trade zones.

***Minicase 16.1***

John Tavis, a licensed broker and owner of Rider Logistics, obtains a power of attorney (POA) from a new client, Heather Mathis, owner of Global Imports (importer), on February 3, 2006. Tavis does not possess a national permit; however, he is permitted to practice in the districts of Laredo and Dallas (see 19CFR 127.1, 171 appendix A, HTS: XXII:13).

**CUSTOMS POWER OF ATTORNEY**

**KNOW ALL MEN BY THESE PRESENTS:** That Global Imports doing business as a partnership under the laws of the State of Texas residing or having a place of business at 2093 Nova Road, DALLAS, TEXAS hereby constitutes and appoints John Tavis dba RIDER LOGISTICS and it's authorized employees , which may act through any of it's licensed officers or employees duly authorized to sign documents by power of attorney as a true and lawful agent and attorney of the grantor named above for and in the name, place, and stead of said grantor from this date and in ALL Customs Ports and in no other name, to make, endorse, sign, declare, or swear to any entry, withdrawal, declaration, certificate, bill of lading, carnet, or other document required by law or regulation in connection with the importation, transportation, or exportation of any merchandise shipped or consigned by or to said grantor; to perform any act or condition which may be required by law or regulation in connection with such merchandise; to receive any merchandise deliverable to said grantor.

To authorize other Customs Brokers duly licensed within the territory to act as grantor's agent; to receive, endorse and collect checks issued for Customs duty refunds in grantor's name drawn on the Treasurer of the United States; if the grantor is a non-resident of the United States, to accept service of process on behalf of the grantor;

...

This power of attorney is to remain in full force and effect until revocation in writing is duly given to and received by grantee (if the donor of this power of attorney is a partnership, the said power shall in no case have any force or effect in the United States after the expiration 2 years from the dates of its execution);

IN WITNESS WHEREOF: the said GLOBAL IMPORTS has caused these presents to be sealed and signed:

(Signature) (Signed) HEATHER MATHIS (Print Name) HEATHER MATHIS

(Capacity) PARTNER Date: FEBRUARY 3, 2006

Witness: (if required) ALAN SCHULMAN (PARTNER) (Signature)  
(Signed) ALAN SCHULMAN

If you are the importer of record, payment to the broker will not relieve you of liability for Customs Charges (duties, taxes, or other debts owed Customs) in the event the charges are not paid by the broker. Therefore, if you pay by check, Customs charges may be paid with a separate check payable to U.S. Customs which shall be delivered to Customs by the broker. Importers who wish to utilize this procedure must contact our office in advance to arrange timely receipt of duty checks.

1. What is the expiration date of POA? Unless revoked earlier, for how long is the broker supposed to retain the POA for recordkeeping purposes?
2. Is a POA required when John Tavis, the broker, is acting as the importer of record?
3. Global Imports requests its supplier in Malaysia to ship directly to its client in New York. Can John Tavis issue a POA on behalf of Global Imports to another broker (which is permitted in the Port of New York) to allow the latter to clear goods on behalf of Global Imports?
4. Global Imports does not have an importer of record number. Which CBP form should the broker prepare and file to obtain this number?

**CASE 16.1. TAX DEDUCTION  
FOR PROCESSING IN MAQUILAS:  
MERE ASSEMBLY OR FABRICATION**

U.S. Customs regulations provide for deduction of the costs of U.S. components or materials assembled abroad upon importation into the United States. In order to qualify for this exemption from duty assessment, the components must be exported in a condition ready for assembly without fabrication, and not lost their physical identity by change in form or shape. U.S. Customs also requires that the components not be advanced in value abroad except by mere assembly or operations incidental to the assembly process such as cleaning, lubricating, and painting. This has largely facilitated the establishment of maquilas (in bond plants) along the U.S.–Mexico border in order to assemble U.S. components for re-export to the United States.

ABC Corporation of Phoenix, Arizona, attempted to take advantage of this opportunity by shipping U.S. components to Mexico for assembly and re-export. The company shipped straight steel strips from Tuscon, Arizona, to neighboring Nogales, Mexico, for use in luggage, which was later imported into the United States. U.S. customs denied a deduction from the value of the luggage for the cost of steel strips, stating that shaping the steel strips before placing them within the luggage constituted a further fabrication and not mere assembly; that is, the bending process was not incidental to assembly of a component exported from the United States. ABC Corporation does not believe that the denial by U.S. Customs was justified.

**Questions**

1. Do you agree with U.S. Customs?
2. What is your advice to ABC Corp?