

Uncle Sam Reacts to Europe's Unfair Customs Clearance Treatment

by *Steven W. Block* November 2004

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The Office of the U.S. Trade Representative (USTR), charged with analyzing, promoting and representing America's international trade interests abroad, recently fired a salvo against the European Union (EU). Invoking dispute resolution procedures at the World Trade Organization (WTO), U.S. Trade Rep Robert Zoellick hopes to solve a problem small and medium size U.S. exporters face getting their wares through customs on the Continent. He seeks to have the uniformity-oriented EU to, hey, get uniform.

The EU, comprised of several significant U.S. trading partners, was created to obtain advantages through its member states working as a more singularized unit in politico-economic affairs. The union strives for clout by way of a larger unit streamlining its economic infrastructure.

The problem is that, in many customs clearance procedures, there really isn't much uniformity among those states. Tariff schedules and classifications can differ greatly from country to country, as can the procedure non-EU exporters must follow to get their freight entered and cleared. Many aspects of customs administration also are handled differently amongst EU members. A commodity's classification in one state isn't binding, or even precedential, in another. Smaller and mid-size U.S. exporters (and those who represent them) often face a complex maze in trying to export to EU countries, one that often is cost prohibitive. What's more, the goal posts seem to move, such that experience with a successful clearance one time doesn't mean you know just what to do in the future.

And woe to the little U.S. shipper who wants to challenge a tariff classification of one or more EU members (which might even be issued pursuant to the same export). There is no comprehensive, user-friendly EU review procedure or program. You pretty much have to figure out and deal with the customs programs and laws of each destination state involved, get their final positions, and then appeal them to a EU Commission. The costs, difficulty, and delays of jumping these hoops are daunting, especially for little guys who don't have deep pockets for this kind of thing.

To be fair, the EU Commission has tried to rectify its customs uniformity issues on an *ad hoc* basis, dealing with grievances of individual U.S. exporters that have arisen in recent years. Apparently, the union doesn't deny there's a problem. However, USTR believes the EU's effort has been insufficient to the extent it has failed to produce "systemic solutions."

The 147-member WTO, of which Uncle Sam and the EU are brother members, offers a tribunal for this kind of beef. WTO members are obliged to run their customs programs

even-handedly, such that trade is not unreasonably deterred. If someone feels they're getting a bad deal, the WTO will seek both macro and micro solutions. In response to USTR's petition, WTO will first request consultations, and try to work out the players' disagreement through settlement procedures. If that doesn't work, the matter will get more formalized attention. The whole proceeding could take eighteen months.

USTR proclaims that its complaint will be good for the EU, as it will prompt the Europeans to take another look at their customs-based coterie with a mind toward making it more uniform and equitable for all concerned. Zoellick has announced USTR "will continue to work with the EU to try to resolve our concerns over their customs administration," but that "[t]oday our exporters face a common market with non-common customs practices." Ultimately, says Zoellick, "[w]e hope there is an opportunity to combine uniformity throughout the EU with Europe's effort to integrate its ten new members" (The EU having recently expanded from fifteen to twenty five members, making the matter increasingly significant).

This issue is part of, if not central to, furtherance of Uncle Sam's interests in the Doha Development Agenda. Doha is an initiative WTO launched in November 2001 toward the general liberalization of world trade, the groundwork for which was laid this past July. Doha seeks to bring many underdeveloped and emerging economies into the 21st Century by tailoring certain trade programs to accommodate their circumstances. USTR believes uniformity in EU customs practices, especially given that the union's new membership includes several developing economies, would further Doha's aims.

U.S. exporters and the transportation/trade professionals who serve them should welcome USTR's effort. If free trade is the battle cry; if liberalized global economic relationships will carry us through this era of uncertainty on the international scene; and if the profitability of smaller and medium U.S. exporters are concerns, then EU uniformity in customs clearance is essential.

Ref: The websites of the Office of the U.S. Trade Representative, www.ustr.gov, and the World Trade Organization, www.wto.org.