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Senate and House Draft Free Trade Agreement Bills Would Increase MPF

Dear Valued Customer,

In our [newsletter dated June 29, 2011](#) we provided an update on [Senate Finance Committees'](#) draft bill of the South Korea, Columbia, and Panama free trade agreements (FTA), which also included provisions for retroactive renewal of the Generalized System of Preferences (GSP), and the Andean Preferences (ATPA) programs. The [House Ways and Means](#) also drafted their version of the FTA bill.

Both versions of the FTA bills approved during the July House and Senate Committee mock mark-ups of the three pending free trade agreements would also increase the **Merchandise Processing Fee (MPF)** on formal entries by more than 60%, which would result in hundreds of millions of dollars in additional MPF payments by importers.

These House Ways and Means' and Senate Finance Committee's draft KORUS FTA implementing bills would increase the current .21% MPF for formal entries by about 0.13% to a rate of 0.3464% (House) or 0.343% (Senate).

The draft legislation does not propose any amendments to the \$485 cap on the maximum MPF, nor the minimum \$25 MPF, for formal entries.

The approved draft bills are recommendations to the Obama Administration, which must write the final KORUS FTA implementing legislation. Once the Administration sends the final KORUS FTA implementing bill to Congress, the House and Senate are slated to consider it in an up-down vote (no amendments are allowed).

Any increase to the MPF would need to be in line with international rules. GATT requires fees on imports, such as the MPF, to be "commensurate with the cost of services rendered." GATT also states that import fees may not represent an indirect protection to domestic products or a tax for fiscal purposes.

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The flat rate MPF for informal entries is not affected by the draft bills. In addition, the Express Consignment Carrier fee for processing merchandise is similarly unaffected.

Merchandise is exempt from the ad valorem MPF if it is classified under certain HTS Chapter 98 provisions, or is a product of an insular possession, a CBI country, a least developed beneficiary country, or is from a country that has a free trade agreement with the U.S.

We thank you very much for your time and should you require any assistance or if you have any questions, please consult with your local James J. Boyle & Co. office listed below.

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