

The Farm Bill and the Importer

What does agricultural legislation have to do with importers of just about anything? The House and Senate have recently passed (mid-May), by virtually veto-proof majorities, the *Food, Conservation and Energy Act*; otherwise known as the "Farm Act". Though President Bush has vowed to veto this bill, the congressional majorities plus election year pandering to special interests will likely see the veto overridden.

Found among increased crop subsidies, direct payments to the wealthiest of corporate farmers and a host of other special interest provisions that will cost about \$300 billion over the five year life of the bill are some very interesting and important provisions directly affecting importers of all goods into the U.S.

The bill extends all CBP user fees through September 30, 2017. Among the most notable of these are the Merchandise Processing Fee (MPF) and the Harbor Maintenance Fee (HMF). Country of origin marking requirements for meat, fruits, and vegetables – now voluntary – would become mandatory and a permanent provision of Customs law.

Perhaps most interesting, the Farm Bill addresses the controversial proposal by CBP to re-interpret the "first sale for export" rule. The Bill bars CBP from implementing any change before January 1, 2011. It does not prevent CBP from ever doing it but forestalls any action prior to that date.

After that date, should CBP continue its pursuit of redefining a "First Sale" valuation rule, the bill establishes a process and associated timelines that CBP must follow. There must be reporting by Customs to the U.S. International Trade Commission who must, in turn, report to Congress. CBP must engage in consultations with the Commercial Operations Advisory Committee (COAC). Prior to any final implementation of a redefined "First Sale" rule, CBP must seek explicit approval of the Secretary of the Treasury.

Though the "First Sale" rule will likely remain a controversial issue between the importing community and CBP, the likely passage of this legislation through a veto-override has placed the issue on simmer rather than full boil.