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REPORT BY THE U.S.

General Accounting Office

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RELEASED

Customs Has Corrected A Deficiency In Administering The Quota On Imported Tuna

One of Custom's responsibilities is to administer import quotas. Under a tariff-rate quota, the duty rates change as the quantity of imports varies. Customs has interpreted the Tariff Schedules as requiring that tuna imported from American Samoa be charged against quota limits. However, from at least 1970 to 1978 Customs' Los Angeles District, through which all American Samoa tuna enters the United States, did not do so.

In two of these years--1970 and 1972--higher duties would have been triggered because quotas were exceeded. The exact amount of additional duties is indeterminable.



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UNITED STATES GENERAL ACCOUNTING OFFICE
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GENERAL GOVERNMENT
DIVISION

B-209675

The Honorable John B. Breaux
Chairman, Subcommittee on Fisheries
and Wildlife Conservation and
the Environment
Committee on Merchant Marine and
Fisheries
House of Representatives

The Honorable Edwin B. Forsythe
Ranking Minority Member
Subcommittee on Fisheries and
Wildlife Conservation and
the Environment
Committee on Merchant Marine
and Fisheries
House of Representatives

This report is in response to your August 18, 1982, request that we evaluate (1) Customs' method and manner of counting imported tuna canned in water, including the process used to determine when the quota is reached, and (2) the method used for setting the quota. (See app. I.)

One of Customs' responsibilities is to administer quotas on imported products. A quota is a quantity control placed on imported products by the Congress or by the executive branch. Under a tariff-rate quota, the duty rates change as the quantity of imports varies. The administration of quotas and the assessment of duties involves classifying imports under the appropriate item number and provision of the Tariff Schedules of the United States.

Customs has interpreted the Tariff Schedules as requiring that tuna imported from American Samoa be charged against quota limits. However, from at least 1970 to 1978 Customs' Los Angeles District, through which all American Samoa tuna enters the United States, did not do so. In two of these years--1970 and 1972--higher duties would have been triggered because quotas were exceeded. The exact amount of additional duties is indeterminable.

The remainder of this report discusses Customs' administration of the tariff-rate quota on tuna imports and its ramification in greater detail.

THE TARIFF-RATE QUOTA FOR TUNA

The tariff-rate quota for certain canned tuna imported into the United States was established by Presidential Proclamation 3128 of March 16, 1956, and incorporated into the Tariff Schedules. Under the Tariff Schedules as amended, canned tuna qualifies for a duty rate of 6 percent ad valorem (a percentage of unit value) when the following conditions are met:

- The product is prepared or preserved in any manner other than oil.
- It is packed in airtight containers weighing with their contents not over 15 pounds each.
- The aggregate quantity of such tuna imported during the calendar year has not exceeded a quota amount which is based on 20 percent of the United States production of canned tuna during the preceding calendar year.

Under the terms of the Proclamation, tuna imported into the United States that meets the first two conditions but exceeds the tariff-rate quota limit is charged a higher duty rate of 12.5 percent ad valorem.

Customs establishes the canned tuna quota limit for any year by computing 20 percent of the United States production of canned tuna for the prior year. The Department of Commerce's National Marine Fisheries Service provides Customs the production data. The production data is voluntarily reported by the canneries and is not verified by the National Marine Fisheries Service. Two of the canneries providing production data also operate plants in American Samoa. For quota purposes, the National Marine Fisheries Service excludes the tuna packed by the American Samoa plants from the U.S. production data provided Customs.

CUSTOMS' QUOTA MONITORING PROCEDURES

Imported tuna subject to quota cannot be entered into the commerce of the United States until Customs personnel at ports-of-entry determine the quota status. To make that determination, entry processing personnel use computer terminals

to query a central data bank located at Customs headquarters. The data bank keeps current information on the quantity authorized to be imported and the actual imports at the time of the query. The computer responds to the query with either an "accept" or a "hold" instruction. When imported tuna reaches 98 percent of the quota limit, Customs' Quota Section officials instruct the district offices to collect the applicable higher rate of duty until they determine whether the quota limit has been reached.

We found no indications that this was not an effective method for obtaining import data on products having quotas that had to be monitored on a current basis. However, to check the accuracy of Customs' statistical data on the tuna quota, we compared Customs' data with similar import data compiled by the Census Bureau. We found no substantial differences that could not be explained.

IMPORTS FROM AMERICAN
SAMOA SHOULD HAVE BEEN
CHARGED AGAINST TUNA QUOTA

In the absence of any special provision in the Tariff Schedules, Customs has interpreted the schedules as requiring that tuna imported from insular possessions of the United States is properly chargeable against the tariff-rate quota. Imports from American Samoa, an insular possession which is outside the U.S. customs territory (the 50 States, the District of Columbia, and Puerto Rico), are subject to the provisions of the Tariff Act of 1930, as amended, including the Tariff Schedules.

Nevertheless, Customs' Los Angeles District--the point at which canned tuna from American Samoa enters the United States--did not charge the imports against the quota for a number of years. In April 1970, the Los Angeles District Director issued written instructions to Customs inspectors stating that "Canned tuna from Insular Possessions, i.e., American Samoa, is not considered quota * * *." We were unable to determine if any tuna imported from American Samoa was excluded from the quota prior to April 1970.

Headquarters' officials responsible for monitoring the quota became aware, during October 1971, of the district's practice of excluding tuna imports from American Samoa from the quota limits. In an effort to clarify the District Director's instructions, a headquarters official requested advice from Customs' Classification and Value Division on May 18, 1972, on whether the tuna imported from American Samoa was

subject to the quota. The Division did not respond to this request and the quota section failed to follow up on the matter. As a result, the Los Angeles District continued to not charge the imported tuna against the quota.

Not until 1978, 7 years later, when Customs' Regulatory Audit Division became aware of the district's practice was any action taken to correct the problem. During a September 1978 survey of canned tuna products imported from insular possessions, the auditors found that tuna imports from American Samoa were not being charged against the quota. Quota officials at Customs headquarters, after being alerted of this practice by the Regulatory Audit Division, advised the Los Angeles District that imported tuna from American Samoa should be counted for quota purposes. Thus, the district began charging such tuna imports against the quota during July 1978.

The Regulatory Audit Division, nevertheless, later requested a ruling on the matter from the Classification and Value Division on May 16, 1979. The Classification and Value Division issued its June 8, 1979, internal decision stating that although tuna from American Samoa may qualify for duty-free treatment under General Headnote 3(a) of the Tariff Schedules, it is nonetheless chargeable against the tariff-rate quota.

NOT COUNTING IMPORTED TUNA
FROM AMERICAN SAMOA AGAINST
QUOTA HAD LITTLE OR NO IMPACT

Our review of the statistics on imported tuna for 1970 through 1978 disclosed that had Customs charged the imported tuna from American Samoa against the quota, the amount of tuna imported would have exceeded the quota limits in only 2 of the 9 years--1970 and 1972--as shown on the following page.

Canned Tuna Imports Subject to Quota
(note a)

<u>Calendar year</u>	<u>Quota</u>	Imports From <u>American Samoa</u>	Imports From <u>Other Countries</u>	<u>Total Imports</u>	<u>Over Quota Amount</u>
----- (1,000 pounds) -----					
1970	70,146	15,181	71,048	86,229	16,083
1971	77,296	13,444	55,638	69,082	-
1972	78,532	29,013	54,474	83,487	4,955
1973	109,809	24,317	36,973	61,290	-
1974	112,176	16,781	48,697	65,478	-
1975	120,740	10,526	48,847	59,373	-
1976	98,125	15,235	56,409	71,644	-
1977	111,246	15,425	33,913	49,338	-
1978	101,407	32,958	51,531	84,489	-
1979	125,813	28,471	53,072	81,543	-
1980	109,074	43,293	70,845	114,138	5,064
1981	104,355	61,044	76,684	137,728	33,373
1982 <u>b/</u>	109,742	52,441	84,469	136,910	27,168

a/Figures were obtained from U.S. Customs Service, Quota Section, when available. Statistics on imports from American Samoa prior to 1980 were not available from the Quota Section and, thus, were obtained from Department of Commerce Import Statistics, "U.S. Trade with Puerto Rico and U.S. Possessions," FT 800.

b/All figures as of October 31, 1982.

The statistical data and other information do not reflect the timing of tuna imports; consequently, we cannot determine what portion of the tuna over quota imported during calendar year 1970 and 1972 was from American Samoa and qualified for duty free status. Thus, the amount of additional duties that should have been assessed is indeterminable.

Importers became concerned toward the end of 1980 when the quota limit was exceeded and Customs began assessing the canned imported tuna at the higher duty rate--12.5 percent versus the within-quota duty rate of 6 percent. The concern arose because Customs' Los Angeles District had changed its practice and began to charge imported tuna from American Samoa against the quota.

Part of the reason for the quota being exceeded in recent years was increasing imports of tuna from American Samoa. Between 1970 and 1977, the imports averaged about 17.5 million pounds per year, or 18 percent of the quota. Since 1978, imports have increased each year (except 1979) and have ranged from approximately 29 million pounds to 61 million pounds per year, or between 23 and 58 percent of the quota.

Imports of tuna from other countries, on the other hand, have also increased in recent years. Between 1970 and 1979, these imports have averaged 51.1 million pounds per year. However, in 1980 they increased to 70.9 million pounds and in 1981, to 76.7 million pounds.

CONCLUSIONS

Customs has now resolved the American Samoa matter. Retrospectively, there was no impact on the tuna quota except in calendar years 1970 and 1972 when imports over the quota limit were not assessed the higher duty rate. Even when Customs began to charge imported American Samoa tuna against the quota, the quota limits were not exceeded until calendar year 1980. Since then, as a result of the increasing imports from American Samoa as well as from other countries, tuna imports have exceeded the quota resulting in a higher duty rate for imports from other countries.

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The subcommittee requested that we not obtain formal agency comments from the Department of the Treasury. However, as arranged with the subcommittee we discussed this report with Customs officials who generally concur with its contents. As noted in our Objectives, Scope, and Methodology section (see app. II), we also discussed this matter with appropriate National Marine Fisheries Service representatives. We plan no further distribution of this report until 3 days from its issue date, unless the subcommittee publicly announces its contents earlier. At that time, we will send copies to the heads of the Federal agencies involved and other interested parties. Copies will be made available to others upon request.

W. J. Anderson

William J. Anderson
Director

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U.S. House of Representatives
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MAJORITY COUNSEL
EDMUND B. WELCHMINORITY STAFF DIRECTOR
MICHAEL J. TOONEY

August 18, 1982

Mr. Charles A. Bowsher
 Comptroller General
 U.S. General Accounting Office
 441 G Street, N.W.
 Washington, D.C. 20548

Dear Mr. Bowsher:

Imports of canned tuna into the United States are subject to a tariff rate system designed to protect the domestic tuna processing industry. Tuna canned in water is the largest imported canned tuna product, although tuna canned in oil is also imported. Tuna canned in water enters the Custom's jurisdiction of the United States subject to a six percent (6%) tariff rate, until the amount imported reaches twenty percent (20%) of the prior year's domestic production at which point the tariff increases to twelve point five percent (12.5%). 1980 was the first year the quota was reached and the higher tariff rate of 12.5% was applied, and in 1981 the quota was again reached and it will undoubtedly be reached this year.

We are writing to request that the General Accounting Office undertake (1) an evaluation of the method and manner of counting imported tuna canned in water and the process undertaken by the U.S. Customs Service in determining when the quota has been reached; and (2) the method used in setting the quota. Obviously, the way in which this provision of law is implemented is of considerable concern to the domestic tuna industry and to our Subcommittee. We hope you will be able to report back to us within 60 days on this matter.

If you have any questions about this request, please contact Mr. Timothy E. Smith, Counsel to the Subcommittee on Fisheries and Wildlife Conservation and the Environment at (202) 226-3522.

Sincerely,



EDWIN B. FORSYTHE
Ranking Minority Member
Subcommittee on Fisheries
and Wildlife Conservation
and the Environment



JOHN B. BREUX
Chairman
Subcommittee on Fisheries
and Wildlife Conservation
and the Environment

OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of our review were to evaluate Customs' method of administering the tariff-rate quota on tuna, not preserved in oil, and determine the method used for setting the tariff rate quota.

During our review, we interviewed the Customs officials responsible for (1) monitoring tuna imports, (2) implementing the quota, and (3) determining the proper tariff classification for an imported article. We also talked to Customs' import specialists at three ports-of-entry to determine where tuna imports were entering the country and whether these imports were being charged against the quota. In addition, we examined Customs' records documenting its administration of the tariff-rate quota on tuna.

To determine the method used for setting the quota, we also examined the process used by the National Marine Fisheries Service to arrive at annual U.S. production of canned tuna, the basis from which the quota is derived. We also verified that the quota set by Customs was actually 20 percent of this figure.

This review was conducted in accordance with generally accepted Government auditing standards.



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