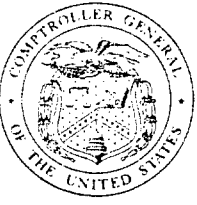


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Mr. Billard



**DECISION**

**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D. C. 20548

FILE: B-196480

DATE: January 30, 1980

MATTER OF: Sunpak Movers, Inc. *DLG 03779*

**DIGEST:**

Government not liable to forwarder for charges billed claimant by customs-house broker for payment of customs duty on foreign-made wooden containers, packed with household goods of Air Force member returning to Hawaii from Japan, because import service charges specifically excluded from forwarder's single factor transportation rate in Military Rate Tender do not include customs duties.

Sunpak Movers, Inc. (Sunpak) requests [review of settlement action] taken by the Department of the Air Force, Headquarters, 475th Air Base Wing (PACAF), APO San Francisco, on a claim for \$44.08 for import services performed by a customs-house broker, at Honolulu, Hawaii. The services relate to a shipment of household goods belonging to a member of the Air Force which was transported in April 1977 from Yokota, Japan, to Honolulu, Hawaii, on Government bill of lading No. M-0986152. PACAF disallowed Sunpak's claim. *DLA03780*

Usually, claims for transportation charges are settled by the General Services Administration (GSA) pursuant to Pub. L. 93-604, October 12, 1975; however, GSA delegated to the Department of Defense authority to settle claims as its designee on overseas shipments. See 49 U.S.C. 66(a) and 41 Fed. Reg. 2446, January 16, 1976. Under 49 U.S.C. 66(b) as amended by Pub. L. 93-604 and implemented by 4 C.F.R. 53 (1978), Sunpak requests review by the Comptroller General. See B-187110, February 15, 1977.

The claim for \$44.08 presented by Sunpak was supported by the customs-house broker's invoice, which itemized charges of \$14.08 for an "ADVANCE TO CUSTOMS," and \$30 for "SERVICES TO ENTRY/WITHDRAWAL." PACAF

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disallowed the claim on the ground that the charges were included within the single factor transportation rate published in Household Goods Forwarders Association of America, Inc., Military Basic Tender No. 1-F (Tender No. 1-F) which applies to the shipment. PACAF contends that the charges assessed by the broker were for a customs duty and for services incident to the payment of the duty on the containers in the shipment, rather than for import services necessary to clear the member's household goods through customs.

Sunpak contends that the single factor rate does not include the charges paid to the broker because they were for services covered by an exception to the single factor rate contained in Item 15 of Tender No. 1-F. Pertinent provisions of Item 15 follow:

"\* \* \* \* \*

Single factor transportation rates INCLUDE  
THE FOLLOWING SERVICES: (Contd)

\* \* \* \* \*

(d) Export and import service charges, EXCEPT  
as shown in Notes 1 \* \* \*.

\* \* \* \* \*

NOTE 1: Any storage, waiting time and/or handling charges caused by failure of the origin transportation officer to furnish acceptable custom documents or by refusal of customs officials to clear shipment, will be billed at charges provided in this tender when performed by carrier. When such services are performed by a third party, billing will be at the actual cost charged to the carrier, supported by paid invoices of such third parties with reference to applicable rate schedules and/or tariffs, when charges are assessed in accordance with such publications.

\* \* \* \* \*

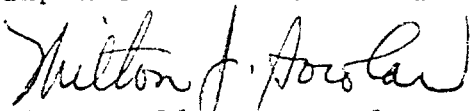
Sunpak contends that it is entitled to the charges, alleging that they were incurred as a result of refusal by customs officials to clear the shipment, and that the charges represent the actual cost to Sunpak, as billed by the third-party broker. We do not believe that Sunpak has established the liability of the United States for payment of the charges. See 55 Comp. Gen. 301 (1975); see, also, B-189436, January 25, 1978, and cases cited therein.

The file supports PACAF's contention that the services performed by Sunpak's broker consisted merely of paying a customs duty on the containers in which the member's household goods were packed. Sunpak presents nothing supporting its contention that the broker's charges were for import services caused by the refusal of customs officials to clear the member's household goods.

The file indicates that the household goods were shipped in foreign-made wooden containers and that there is a duty on those containers which is payable upon arrival in Hawaii. The duty is apparently computed on the basis of 16-2/3 percent of established rates applied to the cubic displacement of the foreign-made wooden containers used by the forwarder. A copy of Custom Form 5119-A in the file shows that the foreign-made containers had what appears to be a displacement of 84.50 cubic feet; multiplied by 16-2/3 percent of the rate results in a duty of \$14.08. This explains the broker's "ADVANCE TO CUSTOMS" charge on the invoice, while the \$30 charge is for the administrative processing of payment and entry.

We believe that under Note 1 in Item 15 of Tender No. 1-F the forwarders agree to charge the Government for only those import services that are caused by Custom's refusal to clear the member's household goods (or caused by the neglect of the origin transportation officer). In agreeing to the exception from single factor rates, the forwarders clearly did not include the duty on the containers; this charge is thus included in the single factor transportation rate.

PACAF's disallowance of Sunpak's claim is sustained.

  
For The Comptroller General  
of the United States