

BRIEFINGS

ROUTING SLIP

GRANTEE PROPOSAL

The Foreign-Trade Zone Board has requested comments on a new proposal to provide Grantee organizations with more flexibility and new procedures to reorganize zone projects. A more detailed memorandum on the subject is posted in the Foreign-Trade Zone section of our web site. Please contact Marshall Miller or Scott Taylor with questions. Comments are due by July 7, 2008. 73 Fed. Reg. [26077](#) (May 8, 2008).

ANTIDUMPING

The U.S. Supreme Court will hear the International Trade Administration's (ITA) [appeal](#) of the [Eurodif v. U.S.](#) decisions, which created a loophole in antidumping law by finding that enrichment processing of uranium was a "service" and, thus, not subject to the trade remedy law. The ITA's main concern is that the lower court decisions present a roadmap for circumventing U.S. antidumping laws.

NEW AES BILL

A new bill, H.R. [5828](#), would authorize the reprogramming of Automated Export System (AES) to prevent exports to restricted parties and embargoed countries. The bill also provides for comparing HTSUS classifications with ECCN numbers to ensure appropriate classifications in both systems. This link between the HTSUSs and ECCNs could be problematic, but ultimately useful for the Trade.

2008 SEMINAR SCHEDULE

Space is still available in the intensive, Advanced Classification Seminar May 20-21.

Remaining client-only seminars for 2008 are:

- Foreign-Trade Zones Training July 15-16
- Import/Export 101 Seminar August 12-13
- More information is available on our web site. All seminars are on a first-come, first-served basis. Register now by e-mail to Jackie Davis at jdavis@millerco.com.

10+2 TIMEFRAME

Customs has published its spring 2008 semi-annual regulatory agenda. The agenda indicates that the Final Rule for the [10+2](#) advance data elements is targeted for September 2008.

HTSUS REVISIONS

The U.S. International Trade Commission (ITC) has published [Revision 2](#) to the 2008 Harmonized Tariff Schedule of the United States. No paper version is expected until after July 1.

FCPA CASES ON THE RISE

A recent [Washington Post article](#) highlighted an increase in Foreign Corrupt Practices Act (FCPA) prosecutions to 38 cases last year, compared to an average of just 10 cases per year in prior years. Clients are encouraged to review their FCPA programs and enhance them as necessary.

BOLT SEAL REQUIREMENT

CBP Deputy Commissioner Jayson Ahern [stated](#) at a Homeland Security House Subcommittee hearing on April 2, that, effective October 15, 2008, all containers in-transit to the U.S. will be required to be secured with a bolt seal pursuant to the 9/11 Act of 2007 container security requirement. This requirement is sure to cause significant logistical issues for the Trade.

FIRST SALE UPDATE

Congress has become involved in Customs attempted revocation of the "first sale" rule for valuing imported merchandise. Last week, House and Senate negotiators included a "sense of Congress" in the conference version of the Farm Bill provision indicating that the two Committees which authorize Customs budget will not support a revocation of the first sale rule.

Contact Tom Lobred or Sean Murray for further information.

FOOD AND AGRICULTURE

The controversial farm bill ([H.R.2419](#)) includes provisions to extend preferences to Haiti and the Dominican Republic, use Customs Service user fees to pay for food and agricultural inspections, make country-of-origin labeling for meat, fruits, and vegetables mandatory, and create a new limitation on drawback claimed against the ethanol tax. The House passed the bill on May 14, but a Presidential veto is expected.

PRIORITY TRADE ISSUES

- Customs has again [designated](#) intellectual property rights (IPR) and textiles/apparel as Priority Trade Issues (PTIs).
- Customs has designated agriculture as a priority trade issue ([PTI](#)). Focus areas are preventing agro-terrorism and bio-terrorism, the introduction of harmful pest or diseases, and the introduction of unsafe agricultural food products into the United States.

CLASSIFICATION REVOKED?

The Court of International Trade has ruled that the revocation of a classification ruling previously issued to an importer is an "interpretive ruling or decision" requiring notice-and-comment. The CIT rejected CBP's motion to dismiss, allowing the importer to continue its suit to reverse the liquidation of certain entries under a different HTSUS subheading than was in the ruling. [Int'l. Custom Products, Inc. v. U.S.](#), CIT Slip op. [08-36](#) (March 31, 2008).

LAPTOP SEARCHES

The Ninth Circuit Court of Appeals ruled that Customs may examine the electronic contents of a passenger's laptop computer and other electronic devices without any suspicion of criminal wrongdoing. The court reasoned that the examination is no different than the examination of any other container. [U.S. v. Arnold](#), Slip op. [06-50581](#) (9th Cir. April 21, 2008).

GSP

- The Office of the U.S. Trade Representative (USTR) is soliciting petitions to modify the Generalized System of Preferences (GSP) lists of duty-free products and beneficiary countries. The deadline is June 18, 2008. 73 Fed. Reg. [28174](#) (May 15, 2008).
- Customs has also released a Regulatory Audit [document](#) which provides Customs guidance on making GSP claims and identifies common errors in claiming GSP preferential treatment.

GLOBAL ENTRY PROGRAM

Customs has begun processing applications for its [Global Entry](#) pilot program, due to kick off June 10 at JFK Airport in New York, George Bush Intercontinental Airport in Houston, and Washington Dulles Airport, which is designed to expedite the screening and processing of low-risk, frequent international travelers entering the U.S.

DDTC EXPORT LICENSES

The Directorate of Defense Trade Controls has updated its [requirements](#) for export license support documentation. Purchase order documentation must be from the foreign party, not a U.S. subsidiary, and the purchase order must be addressed to the U.S. party applying for the export license. If these requirements are not met, the license application will be returned without action.

ACE UPDATE

According to Customs, new [bond functionality](#) was available in ACE effective April 12, 2008. Users will be able to query a bond by Bond Number, Bond Activity Code, or Bond Status. Sureties will only be able to search for bonds containing their surety code.

BIS

- The Bureau of Industry and Security has proposed a rule to amend the definition of the word "transfer" to enhance its ability to intercept items not on the Commerce Control List but still subject to the Export Administration Regulations. 73 Fed. Reg. [21076](#) (April 18, 2008).
- BIS has issued a Final Rule to make technical corrections to the Commerce Control List. 73 Fed. Reg. [21035](#) (April 18, 2008).

BROKER EXAM

Customs has posted [questions](#) and [answers](#) to the April 2008 broker exam. The pass rate was 20.5%, a significant increase from the October 2007 pass rate of 9%.

BURMA

OFAC has issued a [guidance](#) document on Burma export sanctions; it has also issued new [license](#) conditions that authorize more [personal](#) remittances and fund transfers for humanitarian activities by nongovernmental organizations.

CHINA C-TPAT VALIDATIONS

Customs Commissioner Basham remarked at the recent NCBFAA annual conference that a second round of joint C-TPAT validations with China Customs is expected this summer, and that only four companies have followed through with third party validations so far.

RETALIATION CHALLENGE

The Court of International Trade has permitted a suit to proceed that challenges CBP's authority to continue assessing 100% retaliatory duties on certain imports from Europe, ruling that the plaintiff has standing to bring the case. [Gilda Industries, Inc. v. U.S.](#), CIT Slip op. [08-51](#) (May 14, 2008).

FTA

- The stalemate over the Colombia FTA continues as House Speaker Pelosi keeps the vote on hold.
- CBP has issued a Final Rule that adopts the interim [regulations](#) on the Jordan FTA. 42 Cust. B & Dec. 1 (April 16, 2008).
- U.S. Trade Representative Susan Schwab recently stated that the implementing legislation for the South Korea FTA will be sent to Congress in 2008. However, there continues to be Congressional concern about the FTA's treatment of vehicles.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/08		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	272	256
SUBZONES	609	506
PENDING		
ZONES	0	5
SUBZONES	25	23
MISCELLANEOUS		
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	