

ATTORNEYS AT LAW

BRIEFINGS

ROUTING SLIP

IMPORT SAFETY

- On December 11, Secretary of Health and Human Services Leavitt announced that the U.S. and China had signed agreements on the safety of food and feed and on the safety of drugs and medical devices. Both agreements create new registration and certification requirements applicable to Chinese producers of U.S. market products, as well as information sharing and verification programs.
- S. 2045, which has been introduced in the Senate, would greatly increase the Consumer Product Safety Commission (CPSC) penalties and empower the CPSC to instruct other agencies to revoke "import licenses" for repeat offenders.

SUCCESSION PLANNING

Several clients experienced significant issues in 2007 because they did not structure appropriate succession planning for their import/export departments. We encourage clients to consider succession planning for their departments. Contact Marshall Miller to discuss.

CHINA WTO

The Office of the United States Trade Representative (USTR) has released its 2007 [report](#) to Congress on China's WTO compliance, highlighting China's ongoing efforts in such areas as intellectual property rights, industrial policy, agriculture, and services.

SEASONS GREETINGS

BEST WISHES FOR A
HAPPY & HEALTHY
NEW YEAR

2008 SEMINAR SCHEDULE

The firm's 2008 seminar schedule has been forwarded to all clients. It includes introductory and advanced sessions. Details are on our website at www.millerco.com. The first session, on foreign-trade zones, is scheduled for January 23 - 24.

2008 HTSUS/SCHEDULE B

- The U.S. International Trade Commission hopes to send the 2008 Harmonized Tariff Schedule of the United States (HTSUS) to press and post it on-line on December 21, 2007. The initial 2008 HSTUS will not include the Oman and Peru FTAs.
- Importers may elect to choose a 2008 entry date as the "time of entry" for goods released after Dec. 15 if they want to benefit from preferential duty reductions that take effect Jan. 1. [ADM 07-0275](#) (Dec. 14, 2007).
- The 2008 Schedule B and HTS tables are scheduled to be updated in the Automated Export System (AES) on January 1, 2008. Census AES Broadcast No. [2007032](#) (Dec. 14, 2007).

CUSTOMS BROKER EXAM

Customs has posted its Oct. 2007 Broker's [exam and answer key](#). The pass rate was 9%, down from 20.8% in April 2007.

EXPORTS – RPS PROGRAMS

The Firm has just completed an extensive review of most of the major Restricted Party Screening (RPS) programs. While the programs are similar, there are many technical differences that should be analyzed before purchasing an RPS program. All clients without an automated RPS system should seriously consider budgeting for an RPS program in order to comply with U.S. export laws. We can provide a detailed memo for a modest fee and assist in determining an appropriate RPS program for your company. Contact Mark Teerink for details.

OFAC PENALTIES

The U.S. Treasury Department's Office of Foreign Assets Control (OFAC) has issued an [interim policy](#) for application of newly-increased penalties under the International Emergency Economic Powers Act (IEEPA).

ITT SETTLEMENT

ITT Corp. has entered into an agreement with the U.S. Army relating to ITT's settlement of charges for unlicensed exports of military night vision technical data. ITT previously agreed to a \$100 million penalty—the largest ever in an export violation case. The agreement includes intrusive oversight provisions and begins implementation of ITT's settlement penalty, \$50 million of which ITT must invest in next generation night vision technology.

FTAs

The House and Senate recently passed the U.S.-Peru Trade Promotion Agreement Implementation Act ([H.R. 3688](#)), and it was signed by President Bush on December 14, 2007. The FTA includes immediate duty-free treatment on 80% of U.S. consumer and industrial product exports to Peru, and on greater than 60% of U.S. farm exports. A Presidential Proclamation must still be issued.

- The USTR's office has indicated that the U.S. and Malaysia are working to restart FTA negotiations early next year.
- The USTR has requested comments on whether parties to FTAs have failed to comply with telecommunications obligations. Comments are due by December 21. 72 Fed. Reg. [65109](#) (Nov. 19, 2007).
- Rep. Charles Rangel (D-N.Y.), Chairman of the House Ways & Means Committee, has expressed optimism that FTAs with Colombia, Panama, and Korea will be considered next year.

NAFTA CHALLENGE

Reflecting the increased Congressional hostility to trade agreements, nine representatives have introduced the NAFTA Accountability Act ([H.R. 4329](#)), which would set conditions for continued U.S. participation in NAFTA, including an increase in U.S. manufacturing, the reduced flow of illegal drugs from Mexico and Canada, and improved health and environmental standards with respect to food imports and US-Mexico border areas.

CUSTOMS REVENUES

Customs Import Specialists at the Port of New Orleans have collected duty plus interest in excess of \$1 million dollars due to various classification and CAFTA violations. This is a strong indication that, although supply chain security is high on the list, classification and trade agreement enforcement are still of importance to [Customs](#).

U.S.-EU C-TPAT

Customs Commissioner Basham recently stated he was skeptical that a Mutual Recognition Agreement (MRA) between the U.S. C-TPAT program and the EU's Authorized Economic Operator (AEO) equivalent could be achieved by 2009. An MRA would preclude companies from having to go through both processes to secure similar benefits.

AMENDED I-9

An amended I-9 (employment eligibility verification) form has been released. The Department of Homeland Security has granted a 30-day grace period from the November 26, 2007 date of the Federal Register notice for employers to begin using the amended form. 72 Fed. Reg. [65974](#) (Nov. 26, 2007).

IN-BOND SYSTEM CHANGES

Thomas S. Winkowski, Customs Assistant Commissioner for Field Operations, recently [discussed](#) improvements needed in the Customs in-bond system, including the need to improve tracking and interaction with ACS/ACE, the need to better control and reconcile in-bond diversions, and the development of new in-bond proposals.

ACE TRANSITION

The Journal of Commerce has reported Customs has reconsidered its plan to have all importers immediately switch to ACE from the old Automated Commercial System (ACS) in January 2009. ACE entry summary statements will be phased-in, beginning with Type "01" and Type "11" entries.

SED/AES COMMENTS

The Commerce Department is seeking comments on the Shipper's Export Declaration (SED) Form 7525-V, and its electronic equivalent, the Automated Export System (AES). Comments are due February 1, 2008. 72 Fed. Reg. [67887](#) (Dec. 3, 2007).

CARGO SAFETY

- Members of Congress have criticized the U.S. Department of Homeland Security's slow response to mandated provisions of the Security and Accountability for Every ([SAFE](#)) Port Act. The original deadline for establishing minimum standards for containers was not met, and the new deadline is April 1, 2008.
- DHS has indicated that Congress may re-assess the goal of 100% scanning in every port by 2012. A scanning program is currently operational in three ports and will be expanded.
- DHS is planning to implement a small-scale [Global Trade Exchange](#) (GTX) pilot program to test the concept. Customs has indicated that although Global Trade Exchange (GTX) data will be used for targeting, it could also be used for entry/exit and import safety purposes.

BIS "TMP" & "BAG" AMENDED

The Bureau of Industry and Security (BIS) has amended the Export Administration Regulations (EAR) to expand the availability of license exceptions Temporary Imports, Exports, and Reexports (TMP) and Baggage (BAG) to allow for certain temporary exports and reexports of technology by U.S. persons to U.S. persons or their employees traveling or temporarily assigned abroad. 72 Fed. Reg. [70509](#) (Dec. 12, 2007).

POSTERS

We love to receive company posters from clients for our office walls. They are a good connection with clients.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/16/07		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	271	256
SUBZONES	602	500
PENDING		
ZONES	1	
SUBZONES	20	
MISCELLANEOUS	20	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	