

# BRIEFINGS

ROUTING SLIP

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## IMPORT SAFETY

For the first time, CBP has designated import safety as a Priority Trade Issue (PTI). Customs will safeguard public health and safety through more refined risk analysis, further developments in ACE, enhanced targeting and tracking, intra-agency communication and coordination, and trade community partnerships.

## 10 + 2 UPDATE

At the National Customs Brokers and Forwarders Association of America's recent Annual Conference, Customs Commissioner Basham stated that he expects Customs to publish the Final Rule on 10 + 2 this summer. Clients should be preparing now for implementation.

## ORIGIN MARKING

- One result of recent import safety concerns is an increased focus on country of origin marking requirements. New origin rules for food were included in a proposed bill (H.R. 3610) and *The Wall Street Journal* ran a story on April 8 on the origin of drugs. Clients should review their origin markings to ensure compliance.
- In an amusing ruling on "blind markings" on pens - i.e., marking with raised letters, but not contrasting colors - the requestor pointed out that Customs distributed a pen with a similar marking at an ACE seminar. Customs refused to consider that pen as precedent. HQ [H007453](#) (Feb. 5, 2008).

## 2008 SEMINAR SCHEDULE

- Advanced Classification Seminar May 20-21.
- London Metal Exchange FTZ Seminar June 17-18
- FTZ Training Seminar July 15-16
- Import/Export 101 seminar is scheduled for 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 Kelly Hall at [khall@millerco.com](mailto:khall@millerco.com).

## COLOMBIA FTA

Controversy continues to surround the FTA with Colombia. On April 7, 2008, President Bush formally sent the [implementing legislation](#) to Congress. House Speaker Nancy Pelosi (D-CA) successfully led an effort to change House rules so that a House vote does not have to occur on the FTA within the mandatory sixty day time frame.

## NEW 2008 HTSUS REVISION

- The U.S. Int'l Trade Commission has released the first [revision](#) to the 2008 Harmonized Tariff Schedule of the U.S. Changes include [updates](#) to rules of origin in the U.S.-Chile FTA and the U.S.-Singapore FTA. 73 Fed. Reg. 1437 (Jan. 8, 2008).
- President Bush has also [issued](#) a Proclamation correcting CFTA and SFTA rules based on WCO recommendations. 73 Fed. Reg. 18141 (April 2, 2008).

## PENALTY TRADE STRATEGY

Customs has [designated](#) trade fraud penalties as a new Priority Trade Issue (PTI). Guidance has been provided to mitigate penalties in PTIs only to the high end of available ranges and other PTI working groups will be assisted in developing penalty guidance.

## PROTOTYPES

Clients are reminded that qualification as a "prototype" for duty free treatment under 9817.85.01 requires compliance with strict requirements. A Customs port recently identified potential improper use of "The Prototype Provision" through high declared values, which resulted in a prior disclosure and a tender of \$14 million in duties and interest.

## GTX ON HOLD

In [testimony](#) before the House Appropriations Committee's Subcommittee on Homeland Security, Deputy Customs Commissioner Jayson Ahern announced that Customs has decided not to move forward at this time with the industry-opposed Global Trade Exchange (GTX) pilot program.

## FIRST SALE

Clients are reminded that comments on Customs proposed revision to the First Sale valuation rule are due by April 23, 2008. 73 Fed. Reg. [4254](#) (Jan. 24, 2008); 73 Fed. Reg. [7315](#) (Feb. 7, 2008). Please contact Tom Lobred for assistance.

### LICENSING AES FILERS?

According to the *Journal of Commerce*, legislation is under consideration to license Automated Export Systems (AES) filers like customs brokers. Currently, only an easily-obtained Census certification is required to file in AES.

### DUTY FREE BILL FOR ROZ

The U.S. Senate has introduced bill [S. 2776](#) to grant duty free treatment to goods from designated Reconstruction Opportunity Zones (ROZs) in Afghanistan and Pakistan. This bill introduces special rules of origin to qualify goods made in ROZs and shipped to the United States.

### ACE PORTAL REPORTS

Customs has posted ACE Portal Reports Dictionaries to its Web site to enhance the understanding of ACE reports and encourage their use.

### CIVIL AIRCRAFT PARTS

The Directorate of Defense Trade Controls (DDTC) has proposed amending the International Traffic in Arms Regulations (ITAR) to clarify its jurisdiction over aircraft parts and components, stating that parts or components are subject to the Commerce Department's Export Administration Regulations (EAR), and not the ITAR, if they are: (a) standard equipment; (b) covered by a civil aircraft type certificate issued by the Federal Aviation Administration (FAA) for civil, non-military aircraft; and (c) an integral part of the aircraft. Comments are due by May 12, 2008. 73 Fed. Reg. [19778](#) (April 11, 2008).

### DISASSEMBLY = PRODUCTION

Canadian Customs has issued a [notice](#) that it considers "disassembly" to be within the NAFTA definition of "production"—matching a U.S. Customs rule issued in August 2005 that was intended to promote recycling and remanufacturing.

### PEAS NOT PROTESTS

Customs has corrected its Post-Entry Amendment (PEA) procedure to state that it will not treat a timely-filed PEA as a protest if processed after liquidation. Importers will have to file separate protests. 73 Fed. Reg. [19865](#) (April 11, 2008).

### BIS ENFORCEMENT

At the U.S. Export Control Forum in Newport Beach, CA on March 17, 2008, BIS Assistant Secretary Darryl Jackson gave a [presentation](#) on [effective principals of export control compliance](#), including risk analysis; a written compliance program; senior official responsibility for oversight; adequate employee training; adequate customer and transaction screening; compliance with recordkeeping requirements; an internal system for reporting violations; internal and external reviews/audits; and remedial actions to address violations.

### SPLIT SHIPMENTS

The Port of Chicago has issued [Pipeline](#) 08-14 (March 28, 2008) on split shipments. It covers the time of arrival, the method of splitting shipments, the (10) calendar day rule, and classes of merchandise that do not qualify for split shipment. Contact Bill Williams with questions.

### DEEMED EXPORT TRAINING

The BIS has expanded its online [library](#) of training resources for exporters with a new module on [Deemed Exports](#).

### PORT USER FEES

The Government Accountability Office (GAO) has issued a [report](#) examining user fees such as Harbor Maintenance Fees (HMF), Merchandise Processing Fees (MPF), and Agricultural Quarantine Inspection Fees (AQI). One GAO recommendation was the assessment of interest and penalties on late HMF payments for foreign-trade zones.

### ZONE REMINDER

Zone Operators are reminded that a blanket CBPF 216 covering the activity within a zone year should be filed and Customs approval received prior to the beginning of each zone year. Contact Linda King or Scott Taylor for additional information.

### FTZ SOURCING CHANGES

Continuing the nearly five year Perrigo saga to secure a final determination on its zone operation, on December 28, 2007, the Foreign-Trade Zones Board staff issued a rare preliminary negative report involving the level of foreign sourcing. To counter the negative determination, Perrigo recently provided additional sourcing information, for which the FTZ Board has requested public comment before April 21. This is another warning to clients to make sure information regarding the sourcing of inputs into zone operations is accurate and accounts for future changes to sourcing plans. For additional information, contact Scott Taylor. 73 Fed. Reg. [14958](#) (March 20, 2008).

### HAND CARRIES

The Port of Chicago has issued [Pipeline](#) 08-15 (April 1, 2008) regarding the entry of hand-carried merchandise. The pipeline provides instructions and lists the options for filers and passengers. Interestingly, the Pipeline instructs that entries for hand-carries should not (1) be through ABI if containing nine or less line items; or (2) use remote location filing (RLF).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 4/15/08		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	271	256
SUBZONES	608	506
PENDING		
ZONES		1
SUBZONES		24
MISCELLANEOUS		23
AVERAGE PROCESSING TIME (MONTHS)		
ZONES		8
SUBZONES		8