

# BRIEFINGS

ROUTING SLIP

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## FTZ MANAGEMENT

The Foreign-Trade Zones Board has issued a second Federal Register notice that modifies its proposed alternative site designation and management framework to include a sunset provision that can now be longer than 5 years in certain cases, add a transitional phase for Grantees that are reorganizing existing sites, eliminate a limit on the number of sites, and eliminate the requirement that a Grantee choose one site as its primary "anchor" site. There will be much discussion on this proposal at the upcoming NAFTAZ Annual Convention. Comments are due by October 31, 2008. 73 Fed. Reg. [52817](#) (Sept. 11, 2008).

## PLANT AND WOOD IMPORTS

The [2008 Farm Bill](#) included an amendment to the Lacey Act that makes it unlawful to import any plant or products with plant or wood content unless a declaration is filed with the U.S. Department of Agriculture that contains: (1) the specific name of any plant contained; (2) value, quantity, and unit of measure; and (3) the country from which the plant was taken. The deadline to begin filing declarations is December 15, 2008, but the government is still working on implementing regulations. The requirement could impact numerous tariff provisions. More details to come in future Briefings issues and, in the interim, check out "What's New" on our website.

## 2008 Seminar Schedule

- The firm is hosting a reception on Customs/Trade/FTZ Developments at the NAFTAZ Annual Convention in Palm Beach, Florida on September 22.
- We have three remaining Advanced Seminars for 2008:
  - **Oct. 21-22** – Valuation
  - **Nov. 12-13** – Classification
  - **Dec. 9-10** – Exports
- 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](mailto:jdavis@millerco.com).

## FIRST SALE

The entry reporting requirement for first sale values went into full effect on August 20, 2008, through the issuance of an Interim Rule. Comments are requested by October 24, 2008. 73 Fed. Reg. [49939](#) (August 25, 2008). Additionally, Customs established a 30-day grace period before enforcement begins, but has issued a [notice](#) outlining the process for retroactively reporting, as necessary, first sale declarations for entries filed during the August 20 through September 19 grace period. Importers or filers must submit a written request to the respective Customs ports of entry by September 26 that are accompanied by an entry spreadsheet that lists the entry line numbers that require the "F" indicator. Contact Tom Lobred with questions.

## OMB REVIEWING "10+2"

The Importer Security Filing ("10+2") is currently being [reviewed](#) by the White House Office of Management and Budget (OMB). Despite industry opposition and threats of Congressional action to require a pilot program, Customs is still publicly indicating a late 2008 implementation.

## UNIFORM RULES OF ORIGIN

Customs has extended until October 23 the comment period on its proposed rule to replace the substantial transformation standard with the rules in 19 C.F.R. Part 102. Clients are encouraged to review the proposal and file detailed comments. Contact Sean Murray with questions. 73 Fed. Reg. [43385](#) (July 25, 2008)(Proposed Rule); 73 Fed. Reg. [51962](#) (Sept. 8, 2008)(Extension).

## MANDATORY AES

- The grace period for mandatory Automated Export System (AES) implementation ends September 30, 2008. Beginning October 1, exporters will be required to use AES or *AESDirect* to report all shipments requiring a Shipper's Export Declaration (SED). 73 Fed. Reg. [31548](#) (June 2, 2008).
- At the recent Trade Support Network (TSN) meeting, it was reported that FTZ numbers are not being accepted through AES. If you are having problems inputting FTZ numbers in AES, please contact Linda King.

## C-TPAT UPDATE

- As of July 21, 2008, Customs indicated there are 8,527 certified Customs-Trade Partnership Against Terrorism participants, 8,519 total validations have been conducted – including 1,285 re-validations, 267 participants have achieved Tier 3 status, and 593 companies have been suspended or removed from the program.
- Customs has reduced its time for providing C-TPAT validation reports from 100 to 45 days.
- After awarding Tier 3 status to only 17 companies in 2007, it appears that Tier 3 status is being awarded to more companies in 2008. The firm has worked with several companies who have been re-designated with Tier 3 status through re-validation or appeal. Contact Sean Murray with questions.
- Customs has concluded its one-year third party validation pilot in China, noting that only 28 of the approximately eligible 300 importers elected to participate.
- According to a [GAO Report](#), a customs security standards mutual recognition agreement is expected to be reached by early 2009 with the European Commission.

## IMPORTER FINED

A pharmaceutical importer has [agreed](#) to pay \$511,000 for failing to file the required Drug Enforcement Administration (DEA) Form 486 for 73 importations of drugs covered by the Controlled Substances Act (CSA).

## MANDATORY COOL

The U.S. Dept. of Agriculture has published an Interim Final Rule that implements the mandatory country of origin labeling (COOL) for certain beef, chicken, nut, and other perishable agricultural commodities that were first included in the 2002 Farm Bill. The Interim Final Rule goes into effect on September 30, 2008. Comments are also encouraged by September 30. 73 Fed. Reg. [45106](#) (Aug. 1, 2008).

## DEEMED EXPORTS

- Ingersoll Machine Tools will pay a fine of \$126,000 for [seven violations](#) of the Export Administration Regulations (EAR) for deemed exports of controlled technology for vertical fiber placement machines and five-axis mills to Italian and Indian nationals working for the company.
- Retired professor J. Reece Roth has been [convicted](#) of violations of the International Traffic in Arms Regulations (ITAR) for transferring defense technology relating to unmanned drone aircraft and surveillance systems to foreign research assistants working in the United States and by e-mail to China. The maximum penalties for the 16-count conviction could result in more than 100 years in prison and millions of dollars in fines. Sentencing is scheduled for January 7, 2009.

## SNAP-R REQUIREMENT

The Bureau of Industry and Security (BIS) has issued a final rule mandating all export and reexport license applications, classification requests, encryption review requests, license exception notifications, and related documents (except Special Comprehensive Licenses (SCL) and Special Iraq Reconstruction Licenses (SIRL) applications) be submitted via its automated system, SNAP-R. 73 Fed. Reg. [49323](#) (Aug. 21, 2008).

## EU INFO TECH TARIFFS

The U.S., Japan, and Taiwan have requested a World Trade Organization (WTO) panel to review the European Union's tariffs on set top boxes, LCD flat panel monitors, and multifunction printers, alleging they violate the duty-free treatment under the WTO Information Technology Agreement (ITA). In response, the EU has [requested](#) a comprehensive overhaul to the ITA that would eliminate non-tariff barriers, expand product coverage, and bring other countries into the agreement.

## NO EEI FOR PUERTO RICO

The U.S. Census Bureau has [published](#) a clarification of the Foreign Trade Regulations for advance filing Electronic Export Information (EEI) on shipments between the U.S. and Puerto Rico. Shipments between the U.S. and Puerto Rico are exempt because Puerto Rico is considered part of the U.S. Customs Territory, but shipments between the U.S. Virgin Islands and either the U.S. or Puerto Rico still require advance filing of EEI.

## FTA-KOREA, COLOMBIA

The Obama Presidential campaign has indicated that it does not want Congress to pass pending Free Trade Agreements with Colombia and South Korea in this Congressional session, pending the election of a new Congress and President.

## FALSE SED STATEMENTS

In a case notable because the final penalty only concerned filing false statements on Shipper's Export Declarations (SEDs), Air Shunt Instruments has settled charges of attempting to violate the International Traffic in Arms Regulations (ITAR) by [agreeing](#) to pay a criminal penalty of \$250,000 for stating that a gyroscope subject to ITAR licensing was eligible to be exported "NLR" (no license required).

## FOREIGN POLICY CONTROLS

BIS has published a notice seeking comments by October 8, 2008 on whether to modify, extend, or rescind "foreign policy based" export controls. 73 Fed. Reg. [52006](#) (Sept. 8, 2008).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 9/15/08		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	273	257
SUBZONES	614	506
PENDING		
ZONES	0	
SUBZONES	29	
MISCELLANEOUS	28	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	