

# BRIEFINGS

## SED

- Effective January 18, 2004, the revised [Shipper's Export Declaration](#) (SED) form will be required when a paper SED is utilized. The revised form has a new box for the Forwarding Agent's EIN (IRS) Number or Social Security Number.
- Exporters are reminded that SED information must be transmitted via AES for all Commerce Control List (CCL) commodities, except EAR99 products and U. S. Munitions List (USML) commodities. The Internal Transaction Number (ITN) received as a result of a transmission will be considered confirmation of compliance with requirements, and must be maintained.

## FDA BTA

- The FDA has republished in its entirety the Small Entity Compliance Guide on the Registration of Food Facilities and Prior Notice of Imported Food that the FDA originally published on December 12, 2003. 69 Fed. Reg. [930](#), (Jan. 7, 2004).
- The FDA has issued a revised guidance document responding to various questions on the registration of food facilities under the Bioterrorism Act. 69 Fed. Reg. [1675](#) (Jan. 12, 2004).
- Clients are encouraged to review the key documents identified in the December 15, 2003 *Briefings* and under "[What's New](#)" on our web site.

## 2004 FIRM SEMINARS

The Firm has scheduled free seminars for its clients in March, May, July and at the NAFTA Conference in October. Information is available on our [web site](#).

## MANDATORY AES

In April 2004 AES will become mandatory for all exports and will link with Customs' automated targeting system. For the very first time, Customs will be managing and reviewing the export process. Only authorized exports will be allowed to leave the U.S. As a result, clients should be taking significant efforts to assure that their export shipments comply with the wide variety of controls that are associated with the Commerce Department, State Department, and other organizations. Likewise, every effort should be made to ensure that the HTS/Schedule B classification number is accurate, valuation is appropriate, marking is correct, documented procedures exist, Special Trade Programs are properly documented, and all other aspects of the export shipment are fully compliant.

## EXPORT COMPLIANCE

We have developed a new comprehensive nontraditional methodology. For a full explanation, access "[What's New](#)" on our web site or contact Marshall Miller.

## BROTHER DECISION

The Court of International Trade (CIT) recently held that there is no legal authority to offset any overpayments of duty against underpayments while tendering duties in a Prior Disclosure. This is distinguished from the legal authority set forth in Section 382 of the Trade Act of 2002 (19 U.S.C. 1509(b)(6)(A)), which specifically authorized offsets on multiple entries in audits. The relationship between these two situations bears careful consideration. *Brother International Corp. v. United States*, CIT Slip Op. [03-156](#) (Dec. 3, 2003). Contact Tom Lobred for further information.

## C-TPAT

Clients are reminded that cargo security remains Customs' number one priority. It is our view that in order to maintain timely cargo releases, all importers should be C-TPAT qualified. The Firm has an organized program to aid the process. Additional details are available on the Firm's [web site](#). Alternatively contact Sean Murray or Michael Utchell for details.

## FTZ MAINTENANCE PLAN

Foreign-trade zone clients are reminded that the Firm offers an FTZ Maintenance Plan that provides, for a very moderate cost, a method to address day-to-day zone-related questions and issues. Details of the Plan are available on our [web site](#).

## US FTAS

- President Bush issued proclamations on December 31, 2003, to implement the U.S. Free Trade Agreements (FTAs) with Chile and Singapore, effective January 1, 2004. Chile was removed from the Generalized System of Preferences (GSP). The two agreements have different legal structures.

- The [Central American FTA](#) negotiations have concluded. El Salvador, Guatemala, Honduras, Nicaragua, and the U.S. have reached [agreement](#). Costa Rica is still considering the agreement. More than 80% of U.S. exports to these Central American countries would be duty-free immediately upon implementation of the CAFTA.

- FTA negotiations between the U.S. and Australia and the U.S. and Morocco are expected to conclude in January. The U.S. expects to begin FTA negotiations with Bahrain, Thailand, Columbia, Peru, Ecuador, and Bolivia in 2004.

- The International Trade Commission is investigating the effect of the U.S. FTAs with the Andean countries and Panama. Written comments should be filed by January 26, 2004. 68 Fed. Reg. [75629](#) (Dec. 31, 2003).

## ASIAN FTAS

- Bangladesh, Bhutan, India, the Maldives, Nepal, Pakistan, and Sri Lanka signed a free trade agreement in Islamabad, Pakistan on January 2, 2004. The FTA is effective January 1, 2006, and will lower tariffs between the seven countries to 25% during the first 3-5 years and will eliminate tariffs completely within 7 years.

- Japan is in the beginning stages of seeking free trade agreements with Thailand, the Philippines, and Malaysia. Japan started talks with South Korea on December 22. Japan and Singapore already have a free trade agreement.

## SEA AMS

CBP implemented new Special Bill type programming for non-vessel operating common carriers (NVOCCs) and master vessel operating common carriers (VOCCs) for Sea Automated Manifest system (AMS) participants on January 10, 2004. According to CBP, the Special Bill processing will allow CBP to receive NVOCC bills of lading for targeting purposes, yet restore cargo control against the Master VOCC bill of lading.

## SEMI-ANNUAL AGENDA

Agendas containing pending rules, developments, target dates, and contact information for trade-related agencies such as the Department of Homeland Security, Treasury, Commerce, USTR, FTZ Board, etc. were published on December 22. 68 Fed. Reg. [73361](#) (Dec. 22, 2003).

## CANADA CBSA

The Canadian government recently created the Canada Border Services Agency (CBSA). The [CBSA](#) is comprised of the Customs functions (the former Canada Customs and Revenue Agency); the intelligence, interdiction, and enforcement functions (from the former Citizenship and Immigration Canada Agency); and the passenger and initial import inspection services at ports of entry (from the former Canadian Food Inspection Agency).

## ARMS REGULATIONS

The State Department has amended the International Traffic in Arms Regulations (ITAR) to remove from the U.S. Munitions List (USML) jurisdiction certain quartz rate sensors when the sensors are integrated into, and included as an integral part of, a commercial standby inertial navigation system for use in civil aircraft or exported solely for integration into such systems. 69 Fed. Reg. [873](#) (Jan. 7, 2004).

## CARGO INSPECTIONS

The General Accounting Office (GAO) has issued a report on the efforts by Customs to address the terrorist threat to cargo containers. The report discusses both positive actions taken by Customs and areas needing improvement. [GAO-04-325T](#) (Dec. 16, 2003).

## BIS FINAL RULE

The Bureau of Industry and Security has issued a final rule amending the Commerce Control List (CCL). This final rule revises certain entries controlled for national security reasons in the categories of telecommunications and information security. The list was revised to conform with changes in the List of Dual-Use Goods and Technologies (Wassenaar Arrangement) that were made in December 2002. 68 Fed. Reg. [68975](#) (Dec. 10, 2003).

## TRADE BILLS ON HOLD

Congressional Bills carried over from last November include: the repeal of the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) export tax program; repeal of the Byrd law, which provides for Anti-Dumping/Countervailing (AD/CV) duties to be remitted to affected companies; extensions of duty suspensions; and a variety of technical corrections and funding provisions. H.R. [3521](#) & H.R. [2365](#)

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 1/15/04		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	258	245
SUBZONES	528	447
<hr/>		
PENDING		
ZONES	3	
SUBZONES	11	
MISCELLANEOUS	30	
<hr/>		
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	9	