

# BRIEFINGS

## WEST COAST PORTS

President Bush utilized the Taft-Hartley Act on October 8<sup>th</sup> to obtain a temporary restraining order, reopening West Coast ports and implementing an 80-day cooling off period before labor negotiations restart. There is now a significant backlog in West Coast ports that may require 10 weeks to clear. The 80-day period ends just after Christmas and may lead to another port closure.

## HOMELAND SECURITY

The Senate unanimously adopted an amendment to protect the trade mission of the Customs Service in the proposed new Department of Homeland Security. The amendment to the "Homeland Security Act of 2002" (H.R. 5005) would preserve the agency's responsibility for processing cargo and clarifies that user fees are dedicated for the commercial functions of the agency. The bill remains mired in Senate floor debate, primarily over a labor-protection issue. The House approved its version on July 26.

## TRADE AGREEMENTS

The ITC is investigating the impact of five trade agreements, including NAFTA and the Uruguay Round. A hearing will be held Jan. 14 and comments are due Feb. 13, 2003. 67 Fed. Reg. [59077](#) (Sept. 19, 2002).

## CUSTOMS BUSINESS

Customs has issued a proposed rule to amend 19 C.F.R. § 111 to specify that corporate compliance activity to exercise "reasonable care" under 19 U.S.C. 1484 is not Customs business and, therefore, not subject to the Customs broker licensing requirements of 19 U.S.C. 1641. Clients are urged to submit comments in support of these proposed changes. Comments are due December 16, 2002. 67 [Fed. Reg. 63576](#) (Oct. 15, 2002).

## DRAWBACK PROTOTYPE

Customs has announced a prototype for filing drawback claims through the Automated Broker Interface (ABI). The prototype is limited to claims filed at the New York/Newark Drawback Center. Applications to participate are due October 28, 2002. 67 [Fed. Reg. 61197](#) (Sept. 27, 2002).

## PROTOTYPE PROVISION

Customs has issued a Headquarters Ruling allowing use of the "Prototype Provision" (HTSUS 9817.85.01) for certain research pharmaceutical applications. Issues such as permitted activities, proof of use, and recordkeeping are still unresolved, pending issuance of the applicable regulations, which is expected sometime this fall. HQ [562174](#) (June 19, 2002).

## C-TPAT

- Customs has updated C-TPAT participation statistics, indicating that over 600 companies are participating in the program. However, at a recent meeting of the Commercial Operations Advisory Committee (COAC), Customs stated that membership, and presumably the benefits of participating in C-TPAT, only begin with the filing and review of the Security Questionnaire, not the filing of the Memorandum of Understanding.
- Customs has indicated that the staff dedicated to C-TPAT has increased to 13 and will grow to 30 in 2003.
- The firm has a detailed and comprehensive C-TPAT action plan available for clients. For information on the plan, access "[What's New](#)" on our website or contact Marshall Miller.

## FOCUSED ASSESSMENTS

- Customs is continuing to aggressively conduct Focused Assessments. Currently, over 100 assessments are in progress. The firm has been actively engaged in a number of Focused Assessments.
- Section 382 of the Trade Act of 2002 provides a long-awaited benefit to importers. It requires Customs Reg Audit to consider overpayments and over declarations when calculating loss of revenue and penalties.

## AES

- Census has issued a proposed rule to amend the Foreign Trade Statistics Regulations to incorporate mandatory Automated Export System (AES/AESDirect) filing for items on the Department of Commerce's Commerce Control List (CCL) and the State Department's United States Munitions List (USML) that require a Shipper's Export Declaration (SED). Additionally, the rule proposes the termination of AES Option 3. Comments are due December 9, 2002. 67 [Fed. Reg. 62911](#) (Oct. 9, 2002).
- H.R. 1646, the "Foreign Relations Authorization Act, FY 2003" was signed into law as P.L. 107-228 on September 30. Key provisions of the Act include: (1) requiring all SEDs to be filed via AES; (2) funding for State Department licensing automation and staffing; and (3) increased penalties.
- Customs has indicated that it will accept a paper copy of the SED printed from AESDirect or AESPcLink for shipments that require a State Department license or exemption. Access "[What's New](#)" on our website.
- Census has posted a notice to the AESDirect web site ([www.aesdirect.gov](http://www.aesdirect.gov)) announcing that Version 4.0 of AESPcLink is available for downloading. AESPcLink allows filers to enter their SEDs off-line and submit their SEDs to AES via internet.

## FTA

The Bush Administration has announced its intention to negotiate a Free Trade Agreement (FTA) with Central American countries in early 2003. The countries to be included are El Salvador, Guatemala, Honduras, Costa Rica, and Nicaragua. The ITC has announced an investigation into the economic effects of the agreement.

## U.S. - CANADA BORDER

The [U.S.](#) and [Canada](#) have issued fact sheets on the Free and Secure Trade (FAST) program. The program is designed to align commercial Customs operations along the shared border for low-risk, commercial shipments. It is scheduled to begin December 2002. Access "What's New" on our website for the Fact Sheets.

## RECONCILIATION

Customs has issued a general notice announcing modifications to its ACS Reconciliation Prototype involving NAFTA entries, liquidated damages, the use of compact disks (CDs) for filing, and the applicability of Customs broker national permit requirements. 67 [Fed. Reg. 61200](#) (Sept. 27, 2002).

- Customs has posted a message to its website stating that blanket flags for Reconciliation have been extended to September 30, 2004. Access "[What's New](#)" on our website.

## BYRD AMENDMENT

On Sept. 16, 2002, the WTO upheld claims made by several WTO members that the U.S. Continued Dumping and Subsidy Act, also known as the Byrd Amendment, violates WTO rules. The Byrd Amendment authorizes the distribution of antidumping and countervailing duties collected by Customs to domestic affected parties.

## ATPA

The Andean Trade Preference Act (ATPA) was renewed through Dec. 31, 2006. The renewal is retroactive to the previous expiration date, Dec. 4, 2001. Entries made after Dec. 4, 2001, that would have qualified for duty-free treatment can now be reliquidated. CEBB [I-ATP02.TXT](#) (Aug. 7, 2002).

## MISCELLANEOUS TRADE BILL

On September 13<sup>th</sup>, the House Ways and Means Committee passed H.R. 5385, the Miscellaneous Trade and Technical Corrections Act of 2002. The Senate Finance Committee has not passed its version of this bill out of Committee. Passage of a single bill by both houses is unlikely this year.

## WTO AGENDA

The USTR is conducting public hearings on the potential effects of reductions in tariffs and nontariff trade barriers in agriculture, goods, and services resulting from the WTO Doha Round negotiations. Hearings will be held for goods on October 21, and on November 6 for services. Written comments are due on November 8. [67 Fed. Reg. 59086](#) (Sept. 19, 2002).

## IMPORT FOR EXPORT

The FDA has issued a revised "Import for Export" section of its Regulatory Procedures Manual to reflect Section 332 of the Public Health Security and Bioterrorism Preparedness and Response Act of 2002 (P.L. 107-188), which affect the necessary declaration. The FDA is implementing these revisions without prior notice and comment, citing to the need for immediate guidance on Section 332. However, public comments may now be submitted. 67 [Fed. Reg. 60519](#) (Sept. 26, 2002).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/02		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	254	241
SUBZONES	517	437
PENDING		
ZONES	2	
SUBZONES	11	
MISCELLANEOUS	23	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	11	
SUBZONES	10	