

ATTORNEYS AT LAW

BRIEFINGS

ROUTING SLIP

TAX/CUSTOMS

A front-page Wall Street Journal [article](#) on Sept. 29 highlighted IRS action against a specific international tax strategy involving offshore partnerships and royalties. One of the functions of the Customs Office of Strategic Trade (OST) is to target particular firms/industries whose imports represent a significant risk to the revenue and accuracy of government trade data. This article provides OST with industry and business practices to target.

2007 HTSUS CHANGES

Clients are encouraged to now be reviewing the [2007 HTS changes](#) for their products. The implementation date of the 2007 HTSUS remains uncertain but is unlikely to be January 1. The ITC is working to complete the 2007 HTSUS at the 10-digit level. We have reviewed the proposed changes and can provide an analysis of the potential impact of the changes on clients' imports.

ORIGIN MARKING

Customs Headquarters recently ruled that the phrases "An American Classic," "all-American," and "American style" appearing in a booklet brochure accompanying imported merchandise triggers the special marking requirements of 19 C.F.R. 134.46. Clients are reminded that origin marking is a most important area of focus and carries very substantial additional duties if incorrect. HQ [967987](#) (July 27, 2006).

FIRM TRAINING SEMINARS

- FTZ Training – Oct. 24-25
There are a few seats left for our October FTZ Seminar.
- Import/Export Training – Dec. 5-6
See our [web site](#).

FTZ IMPROVEMENTS

The FTZ Board announced that the average processing time for manufacturing subzones will be reduced from 12 months to 6-8 months and the Temporary or Interim manufacturing (T/IM) program will be provided with more flexibility to allow companies to utilize the expedited approval process. 71 Fed. Reg. [55422](#) (Sept. 22, 2006).

C-TPAT

- Customs is already verifying information submitted through the electronic portal and contacting companies for classifications or changes. Customs has issued a [notice](#) that the C-TPAT Status Verification Interface (SVI) has been moved to the C-TPAT web portal.
- Customs issued a [notice](#) stating that for importers to receive full C-TPAT benefits, ocean shipments should be pre-filed a minimum of 24 hours prior to the cargo arriving in the U.S.
- Customs posted new C-TPAT [security criteria](#) for rail carriers.
- The firm has formulated a C-TPAT [Action Plan](#) and documents that make up an essential core process for implementing a C-TPAT program for any firm.

PHARMACEUTICAL APPENDIX

The first additions to the duty free [list](#) since 1999 are scheduled for January 1, 2007 ([USITC Pub. 3883](#)). A *Federal Register* notice is scheduled for mid-December. Clients are encouraged to review the very extensive list of 1300 items linked herein; if you currently have dutiable material being processed in your FTZ, contact the firm for exit strategies.

PORT SECURITY BILL

Congress passed and sent to the President the Security and Accountability for Every Port (SAFE) Act of 2006, [H.R. 4954](#). Key provisions are:

- The enactment of a C-TPAT statute with detailed requirements raises concerns. Previously, C-TPAT has been a voluntary, non-statutory/regulatory program developed jointly by Customs and the Trade. As a statute, it will be subject to legislative amendment and Customs must promulgate regulations to implement it—both potential opportunities for unfavorable changes.
- Statutory authorization of the Container Security Initiative (CSI).
- Requirements for 100% radiation testing at the 22 busiest seaports, visual/automated container screening of 100% of cargo containers entering the U.S., and 100% electronic scanning of "high-risk" containers before they leave seaports.
- A Customs "International Trade Data System" to be the single U.S. import/export data portal for all federal agencies.

2007 CUSTOMS AUDIT TARGET

Free Trade Agreement Compliance will be a major target. Consider using the firm's Free Trade Agreement/Trade Preference Program. Access on our web site.

SIGNIFICANT ITA ISSUES

The U.S. strategy of structuring the global duty free Information Technology Agreement (ITA) by HTS very differently than the Pharmaceutical Appendix is beginning to unravel. The EU position is that certain devices with new features or recently developed technologies are not within the scope of the ITA and should have significant EU duties. The four products in controversy and new duty rates are digital video set top boxes (14%), LCDs larger than 19 inches (14%), multifunction printers (6%), and digital cameras capable of shooting high quality video. An October 31 meeting in Geneva will begin the process. Do not expect rapid action.

USER FEE AIRPORT/PORT OF ENTRY

The Department of Homeland Security has established a new Port of Entry in Sacramento, California and terminated the user-fee status of Sacramento International Airport. This is the third time in the last few years that Customs has established a new Customs Port of Entry based upon the significant level of activity of a user fee airport. Clients in remote areas should consider establishing a user fee airport. We have structured a number of user fee airports for clients. 71 Fed. Reg. [52288](#) (Sept. 5, 2006).

IRAN SANCTIONS

The President has signed into law the Iran Freedom Support Act, [H.R. 6198](#), which codifies and extends existing economic sanctions against Iran and provides for assistance for pro-democracy efforts in Iran.

NAFTA RULES OF ORIGIN

The President has [proclaimed](#) 78 substantive modifications to the NAFTA rules of origin retroactive to July 1, 2006 based on the agreement of United States, Canada, and Mexico. The changes affect the rules on many goods, including fish and crustaceans, herbs and spices, fish oils, certain food preparations, oils and petroleum products/bitumen, leather, aluminum, diesel engines, gas turbines and parts, valves, electric motor and generator parts, electric transformers, primary cells and batteries, electrical and reception apparatus for radio telephony, turntables, record players, cassette players, radar apparatus, televisions, electric sound or visual signaling apparatus, alarms, certain cathode or photocathode tubes, electrical machines and apparatus, insulator conductors, rail locomotives and parts, truck assemblies, ECGs and parts and accessories, medical appliances and apparatus, hydrometers and similar floating instruments, physical or chemical analysis instruments, time switches, and lighters. The *de minimis* content rule for goods of the chemical or allied industries also was revised. See also the International Trade Commission report ([Pub. No. 3881](#)). Clients are encouraged to consider seeking rules of origin changes where they do not currently have NAFTA qualified products.

BIS CWC REGULATIONS

The Bureau of Industry and Security has proposed a amending its regulations implementing the Chemical Weapons Convention (CWC) to expedite collection of information on the inspection status of plants that produce unscheduled discrete organic chemical (UDOCs), clarify the scope of recordkeeping requirements, and increase the civil penalty for illegal imports of CWC Schedule 1 and 2 chemicals to \$50,000. 71 Fed. Reg. [59032](#) (Oct. 6, 2006).

FREE TRADE AGREEMENTS

- In a reversal of previous policy, the E.U. at the recent ASEM summit in Helsinki agreed to initiate FTA talks generally. The E.U. and Korea have begun work on an FTA.
- Japan and the Philippines have [signed](#) an FTA.
- The U.S. and Mauritius [signed](#) a Trade and Investment Framework Agreement (TIFA) on Sept. 18, 2006. A TIFA can be a precursor to a more formal FTA.
- President Bush [signed](#) the U.S. – Oman FTA implementing legislation on Sept. 26, 2006.
- The Dept. of Defense has issued an interim rule for comment by Dec. 4, 2006 on a waiver of the Buy American Act for FTAs with Bahrain, Dominican Republic, and Guatemala. 71 Fed. Reg. [58541](#) (Oct. 4, 2006).

CHINA HIGH-TECH EXPORTS

The U.S. Department of Commerce has started accepting applications from Chinese entities to become validated end users (VEUs), which will clear the way for U. S. exports of various high-tech products to China. Commerce plans to publish a list of VEUs in its next rule on high-tech exports, which is expected to tighten restrictions for 47 categories of goods. 71 Fed. Reg. [38313](#) (July 6, 2006).

IMAGE

The ICE Mutual Agreement between Government and Employers ([IMAGE](#)) program is, like the original C-TPAT, a voluntary and cooperative ICE-industry partnership to strengthen hiring practices and/or reduce the unlawful employment of illegal aliens. Clients are encouraged to consider it.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/06		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	270	256
SUBZONES	587	487
	PENDING	
ZONES	1	
SUBZONES	16	
MISCELLANEOUS	26	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	