

BRIEFINGS

RECONCILIATION

Customs has posted a reminder to importers that have flagged certain entry summaries as outstanding that correct information must be filed on a type '09' Reconciliation Entry within twelve months of the import date of the entry summary addressing NAFTA eligibility or within fifteen months on the only other eligible issues of Value, 9802, or Classification. As no information has yet been published on liquidated damage amounts or procedures for failure to timely file, Customs will not pursue liquidated damages for non-filing or late-filing of Reconciliations due prior to January 1, 2000. [CEBB T-REC18.TXT \(Sep. 22, 1999\)](#). Access "What's New" on our website.

COMPLIANCE

Importer compliance was 85% for the first three quarters of 1999, compared to 81% for the past two years. Customs compliance goal is 90% for all importers and 95% for key industries.

FSC

A WTO Dispute Settlement Panel Report has concluded that the U.S. Foreign Sales Corporation (FSC) program violates WTO rules. <http://www.wto.org/wto/dispute/108r.pdf>. Access "What's New" on our website.

COMPLIANCE ASSESSMENTS

- A revised [CAT \(Compliance Assessment Team\) Kit](#) has been issued. The basic Questionnaire has been improved. Additional areas covered include NAFTA, GSP, 9802, CBI, AD/CVD, etc. Harbor Maintenance Fees have been deleted. The Kit contains 36 documents. Access "What's New" on our website.
- Customs has revamped the assessment process by reducing sample sizes. Unfortunately the reduced sample size reduces the number of permissible errors.

TRADEMARK NOTICE

Comments are due Nov. 12, 1999 on a proposed amendment to the Customs Regulations that would require importers to list on invoices all trademarks appearing on imported merchandise and its packaging. [64 Fed. Reg. 49423 \(Sep. 13, 1999\)](#). Access "What's New" on our website.

FDA - REDELIVERY

Customs has developed a policy for issuing a "Notice of Redelivery" of merchandise that the FDA determines is not admissible into the U.S. The Customs notice must be issued not more than 30 days after issuance of the FDA notice. The policy will ensure Customs' compliance under 19 CFR 113.62(d) that obligates the principal or surety on the bond for liquidated damages. [CEBB T-OGA2.TXT \(Sep. 17, 1999\)](#).

PRIOR DISCLOSURE

The U.S. Court of International Trade (USITC) denied Pentax Corporation's motion for summary judgement rejecting the claim that the mismarking of goods was not material. Customs' lawsuit seeking up to \$120 million in penalties from Pentax for marking cameras made in China as made in Hong Kong is scheduled for trial November 1, 1999. Pentax voluntarily disclosed the violation under the prior disclosure provisions. Customs disagreed, taking the position that the disclosure was invalid because it was fraudulent. This case could have major implications for the use of prior disclosure. [U.S. v. Pentax Corp. Slip Op 99-98 \(Sep. 20, 1999\)](#).

"EXPORTERS"

Census and the Bureau of Export Administration (BXA) have issued revised proposed rules that would change the responsibilities of parties for export transactions. These proposed rules do not significantly differ from the draft regulations issued in August (see August Briefings). They place increased responsibility with U.S. manufacturers/distributors. Written comments are due by Dec 3, 1999. [64 Fed. Reg. 53861 \(Oct. 4, 1999\)](#) (Census); [64 Fed. Reg. 53853 \(Oct. 4, 1999\)](#) (BXA). Access "What's New" on our website.

TRADE ACTION

Both the House and Senate would like to re-authorize GSP by having the Senate combine [S.1388](#) (GSP renewal), the Senate's version of the African Growth and Opportunity Act ([S. 1387](#)), the U.S.-Caribbean Basin Trade Enhancement Act ([S. 1389](#)), and legislation to extend authorization for trade assistance ([S. 1386](#)) into one bill which the Senate would vote on as [H.R. 434](#). Expanded weekly entry procedures for all foreign-trade zones is included in S. 1388. Expect late October action.

EAA RENEWAL

The Senate Banking Committee unanimously approved legislation to reauthorize the Export Administration Act (EAA) that would broadly relax U.S. government controls on exports of low-risk technology products to most countries. The mass market provision that eliminates controls on products that have been manufactured and distributed for sale in large volumes. The bill would impose stiff civil and criminal penalties on those violating U.S. export control laws. [S. 1712](#) (Oct. 8, 1999).

HMT REFUNDS

A status report on HMT refunds has been issued. The report includes forms for claims, supplemental payment information, and tax payment reports and certifications. Instructions on filing claims is also included, along with information on the number of initial review and disputed claims. Customs has issued 3,401 payment reports and the CIT has entered 2,920 judgments and paid 2,891 claims. [www.customs.ustreas.gov/news/fed-reg/notices/uscourt.htm](#). Access "What's New" on our website.

EXPORT DOCUMENTS

Expect to see more enforcement actions. A New Jersey medical supply company agreed to a \$48,000 fine for understating the price of merchandise on SED's. <http://www.bxa.doc.gov/press/99/Immuno.html>. Access "What's New" on our website.

FTZ

- The FTZ Board published an aggregate Notice on a time extension for non-privileged foreign-status (NPF) for oil refineries and petrochemical complexes. Comments are due Nov. 1. The Board has granted authority to 62 refineries and complexes to conduct refining activity with restrictions under FTZ procedures. The NPF option has been granted to Sep. 30, 2000 and is subject to extension. [64 Fed. Reg. 48140 \(Sep. 2, 1999\)](#)
- The Foreign-Trade Zones Board Office has moved from Room 3716 to Room 4008. The phone number remains the same. Foreign-Trade Zones Board, U.S. Department of Commerce, 14th and Pennsylvania Avenue N.W., Room 4008, Washington, DC 20230. [64 Fed. Reg. 51511 \(Sep. 23, 1999\)](#)
- The FTZ Board is asking Grantees to check that their zone description is complete in the National Export Directory at <http://170.110.214.6/NEDHomeP.nsf?OpenDatabase>. Grantees should call Hans Huber at 1-800-USA-TRADE, ext. 20499.

HMT REPLACEMENT

It appears very unlikely that a replacement for the Harbor Maintenance Tax will be approved this year. Congress and the maritime industry remain strongly opposed to the Clinton Administration's plan, but no widely acceptable alternatives have been presented.

MADE IN USA

The FTC is seeking comments on a proposed consent order with Physician's Formula Cosmetics, Inc. The FTC alleges that the company labeled its products as "Made in USA" when they were of foreign origin. The FTC proposes that the company can only represent that its products are USA made if virtually all of the components are American made and labor is performed in the U.S. Comments are due Nov. 29. [64 Fed. Reg. 52789 \(Sep. 30, 1999\)](#)

ENCRYPTION

The Clinton Administration recently eased restrictions on export of encryption products. These soon to be released export regulations will permit the licensed-free sale overseas of U.S. made encryption products of any key length, subject to a one-time Department of Commerce review. The new policy will allow the export of retail encryption products to any end-user in any country, except for Cuba, Iran, Iraq, Libya, North Korea, Sudan, and Syria. <http://www.bxa.doc.gov/Encryption/whfs99.htm>. Access "What's New" on our website.

CF 4811

Clients are reminded to check the status of their Customs Forms 4811 at Ports. Importers must formally direct Customs via CF 4811s to receive their notices of liquidation bills, refunds, etc. in a timely manner.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/99		
	<u>APPROVED</u>	<u>PENDING</u>
ZONES	232	5
SUBZONES	417	31
MISCELLANEOUS		25
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	14	
SUBZONES	13	