

BRIEFINGS

ROUTING SLIP

NAFTA

- Clients are reminded that January 1 is normally the time to renew blanket yearly NAFTA certificates (CF 434). Special efforts should be made to confirm the accuracy of the NAFTA certification process.
- The NAFTA Free Trade Commission's annual meeting was held recently in Montreal. Several [agreements](#) were reached during the meeting, including new transparency measures for investor-state arbitration and liberalization of the rules of origin.

FTZ

- We understand that Customs will soon issue a Directive on Direct Delivery qualifications, changing the standard that will affect zone operators that do not directly purchase zone material. Access ["What's New"](#) for more information.
- Customs Headquarters forwarded a [Weekly Entry Pipeline](#) authorizing manual estimated CF 3461s. It amends the [Pipeline](#) issued on August 4, 2003. Collectively, these two Pipelines do not provide clear guidance from Customs or FDA. No changes should be made to current practice until clarification is secured.
- A [Customs Field Memorandum](#) indicates that CBP officials are not required to input individual CF 7512 data into the Customs in-bond system or to "arrive" in-bond movements.

C-TPAT

- Custom further clarified the evolution of the C-TPAT program during its late October C-TPAT seminar in San Francisco. The program may become less flexible for participants as Customs starts identifying baseline requirements for C-TPAT participants, such as high strength seals, "Pardo holes," and smart containers. The Commissioner announced a "Green Lane" initiative that will provide faster processing times for certain types of importers. The C-TPAT program was recently opened to Mexican manufacturers; other foreign manufacturers may soon be allowed to join. More than 4,500 companies are now participating in C-TPAT.
- It is our view that all importers should be C-TPAT qualified. The firm has an organized program to aid the process. Contact Sean Murray or Michael Utchell for more 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. Adopting a corporate FTZ project plan in December is a useful way to ensure that all of next year's zone requirements are addressed.

FDA BTA

- Customs has issued an Administrative Message on the basics of the Bioterrorism Act (BTA) requirements that go into effect on December 12, 2003. [ADM 03-2590a](#) (October 29, 2003).
- Two documents have been posted to the Food and Drug Administration web site regarding the registration of food facilities. The documents address registration via the [internet](#) and registration via [paper or CD-ROM](#).
- Customs is updating the "other agency indicators" in the ABI harmonized tariff file. The current Food and Drug Administration indicators FD1 and FD2 are being changed to FD3 and FD4, respectively, for products subject to prior notice. The new Harmonized Tariff Schedule of the United States (HTSUS) list will be posted to our web site when published. [ADM 03-2540](#) (October 24, 2003).
- Customs has issued two Administrative Messages to address Food and Drug Administration prior notification requirements: (1) [ADM 03-2625](#) (November 5, 2003) concerns foreign-trade zone admissions, and other non-entry transactions; and (2) [ADM 03-2619](#) (November 4, 2003) concerns Cargo Release (HI), Border Cargo Release (HN), and Entry Summary (EI) entry application records certified for cargo release.

EXPORTS

- As of October 18, 2003, submission of export data through the Automated Export System (AES) is now mandatory for all products on the U.S. Munitions List (USML) and for all non-Export Administration Regulations (EAR) products, on the Commerce Control List (CCL). This requirement applies to any export shipment that requires a Shipper's Export Declaration (SED).
- To facilitate the transition to the new [SED](#), CBP has stated that it will accept both versions through January 17, 2004.
- The State Department has issued a final rule that amends the International Traffic in Arms Regulations (ITAR) to add references to the AES and to bring the ITAR into conformance with certain provisions of the Foreign Trade Statistics Regulations (FTSR). The notice also indicated that a paper SED would be required during a transition period that expires on December 18, 2003. 68 Fed. Reg. [61098](#) (October 27, 2003).
- The Census Bureau has issued an advance notice of proposed rulemaking that makes the filing of all export shipments requiring SED information on the AES/AESDirect mandatory. The proposed rule also includes Census' plan to eliminate the AES Option 4 post-departure filing program. Comments are due November 21, 2003. 68 Fed. Reg. [60301](#) (October 22, 2003).

HAZMAT

The Research and Special Programs Administration (RSPA) of the Dept. of Transportation issued a final rule, effective October 1, 2004, clarifying the applicability of the Hazardous Materials Regulations (HMR) to hazardous materials loading and unloading operations and storage of hazardous materials during transportation. 68 Fed. Reg. [61906](#) (October 30, 2003).

PARTS EXPORTS

U.S. government approval of the export to China of two Boeing aircraft containing an embedded chip on the U.S. Munitions List is drawing renewed attention to export controls. Reminiscent of the dispute during the Clinton Administration over the handling of satellite exports, the chips may be placed under Commerce jurisdiction.

STEEL TARIFFS

On November 11th a World Trade Organization (WTO) Appellate Body ruled that the American protective steel tariffs violate WTO requirements. The WTO is expected to formally adopt the ruling December 10th. Unless the United States repeals the steel tariffs, the European Union punitive tariffs of \$500 million will take effect against U.S. exports on December 15th. Japan has also indicated it will impose sanctions covering \$100 million in U.S. exports unless the tariffs are removed.

CBP-ONE FACE

Customs and Border Protection (CBP) has posted an updated list of questions and answers (Q&As) regarding its [One Face at the Border](#) initiative to its web site. A single Customs and Border Protection Officer will carry out the functions previously performed by a Customs Inspector, Immigration and Naturalization Inspector, and Animal and Plant Health Inspection Service Inspector.

HTSUS CHANGES

Customs has issued two Administrative Messages to ABI filers concerning HTSUS updates for 2003/2004 HTS verifications, some agricultural products under the U.S./Israel FTA, and other government agency updates to prepare for the new FDA prior notice codes. [ADM 03-2605](#) (October 31, 2003); [ADM 03-2472](#) (October 15, 2003).

USDA PROPOSED RULE

The United States Department of Agriculture has issued a proposed rule on the origin labeling of certain meat, fish, produce and peanuts. The law will take effect as of September 30, 2004, and will become mandatory in October 2004. 68 Fed. Reg. [61943](#) (October 30, 2003).

TRADE PAMPHLETS

[Pamphlets](#) on a variety of subjects, including bonds, intellectual property rights, drawback, TIBs, FTZs, quotas, etc., are available on the web site of the Bureau of Customs and Border Protection.

FESTIVE ARTICLES

In [Park B. Smith, Limited. \(PBS\) v. U.S.](#), the Court of Appeals for the Federal Circuit (CAFC) ruled that textile products with a symbolic content associated with a holiday are classifiable as festive articles; articles that are merely cheerful or colorful and associated with specific seasons of the year, but not a specific holiday, are not classifiable as festive articles.

CANADA BSE

The Animal and Plant Health Inspection Service (APHIS) has issued a proposed rule that would allow the resumption of the importation of Canadian beef cows, certain ruminants, and ruminant products, and by-products. Comments are due January 5, 2004. 68 Fed. Reg. [62386](#) (November 4, 2003).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/03	
	CURRENTLY APPROVED AUTHORIZED
ZONES	257 244
SUBZONES	526 445
	PENDING
ZONES	4
SUBZONES	12
MISCELLANEOUS	31
	AVERAGE PROCESSING TIME (MONTHS)
ZONES	9
SUBZONES	8