

# BRIEFINGS

## ADVANCED MANIFEST

- The March 4, 2004 date for the full enforcement of the term "shipper" for inbound ocean cargo declaration purposes has been delayed. The purpose for the delay is to allow Customs time to review a Petition that was submitted by trade representatives who challenged the definition of "shipper."
- The original date of March 4, 2004 for air freight implementation has been changed to staggered starting dates with the earliest date set for August 13, 2004. 69 Fed. Reg. [10151](#) (Mar. 4, 2004).
- U.S. Customs and Border Protection (CBP) has posted an updated [Frequently Asked Questions](#) (FAQ) on advanced manifest issues to its web site.
- The [ACI](#) initiative released by the Canada Border Services Agency (CBSA) is scheduled to be implemented April 19, 2004. The advance reporting time frame has changed from the initial instructions.

## EU TARIFFS

- Effective March 1<sup>st</sup>, WTO-sanctioned increased tariffs took effect against certain [U.S. products](#) due to Congress' failure to repeal the Foreign Sales Corporation/Extraterritorial Income (FSC/ETI) export tax subsidy. The phased-in tariffs began at 5%, and increase 1% per month, topping out at 17% by March 2005.
- Congress has begun debate on a Bill to repeal the FSC/ETI by Easter break. The EU has indicated flexibility in accepting a 3-year transition period.

## FREE TRADE AGREEMENTS

- The USTR recently released the text of the [U.S.-Australia FTA](#). One concern raised is the exclusion of sugar.
- President Bush notified Congress on March 8, 2004 of his intent to sign the U.S.-Morocco FTA. Upon approval, 95% of consumer and industrial products between the U.S. and Morocco would become duty-free immediately. 69 Fed. Reg. [11491](#) (Mar. 10, 2004).
- The USTR has announced that it intends to negotiate an FTA with Thailand beginning in June. USTR press release No. 2004-10 (Feb. 12, 2004).
- The USTR has announced that a hearing will be held on March 17<sup>th</sup> regarding a possible FTA with Columbia, Peru, Ecuador, and Bolivia. 69 Fed. Reg. [7532](#) (Feb. 17, 2004).
- The USTR intends to initiate FTA negotiations with Panama. A public Hearing will be held beginning March 23, 2004. 69 Fed. Reg. [8518](#) (Feb. 24, 2004).
- On Feb. 20th, President Bush notified Congress of his intent to sign CAFTA. CAFTA currently includes El Salvador, Guatemala, Honduras, and Nicaragua. The Dominican Republic negotiations were completed March 15. Expect textile, sugar, and agriculture concerns.

## 2004 FIRM SEMINARS

A list of current seminars provided at no charge to clients is available on our [web site](#).

## EXPORT

- Export Management issues continue to cause serious concerns. In fiscal 2003, BIS won 20 criminal convictions and over \$3.5 million in criminal fines; in FY 2002, the criminal penalties were \$93,000. In FY 2003, there were over 40 administrative settlements with \$4 million in civil penalties.
- Expect the April 2004 target date for mandatory AES filing to be soon changed officially to Fall 2004 or later. Once an automated database is available, expect an increase in government enforcement actions.
- Morton International, Inc. and two of its foreign affiliates recently agreed to pay a \$647,500 civil penalty to settle [charges](#) in connection with the export and reexport of organo-inorganic compounds and the export of thiodiglycol in violation of the EAR.
- The Firm has recently developed a new export compliance plan to assist clients. Details are on our web site.

## ACE

The National Customs Automation Program test concerning periodic monthly deposit of estimated dues and fees has begun. The CBP's [General Notice](#) invites participation of the initial 41 ACE Importer Accounts to participate. This is the first step in fulfilling an important promise of the 1993 Customs Modernization Act.

## MISCELLANEOUS TRADE BILL

On March 4, 2004, a version of the Miscellaneous Trade and Technical Corrections Act of 2003 was passed by the [Senate](#). The House has already passed its version of a trade bill ([H.R. 1047](#)). A Conference will be held to resolve differences. Expect June approval.

## C-TPAT STATISTICS

U.S. Customs and Border Protection (CBP) has indicated that 5,701 companies have submitted letters to Customs requesting to participate in C-TPAT; there is a 16% rejection rate. Thus far, Customs has certified 3,000 companies in C-TPAT and completed 187 validations. Customs has recently notified 500 firms for validations. C-TPAT participants represent 40% of the total imported value, 77% of the top 100 U.S. importers, 96% of inbound ocean container carriers, and 48% of the top 50 air carriers.

## ROTTERDAM CONVENTION

The Rotterdam Convention on the Prior Informed Consent Procedures for Certain Hazardous Chemicals and Pesticides in International Trade has enacted laws governing the labeling and transmission of information among signatory states for export and import of controlled chemicals and pesticides. Pharmaceutical products and chemicals for human consumption are exempted from the regulations. The U.S. is a signatory state. UNFAO [Press Release](#). [Details](#) of the Rotterdam Convention.

## CBP TOP IMPORTERS

Customs has posted to its web site the lists of the top 5,000 importers for Fiscal Years [2002](#), [2001](#), and [2000](#). The importers are listed alphabetically by name.

## COUNTRY DUTY RATES

ITA's web site contains duty rate information for 97 countries. [www.export.gov](http://www.export.gov)

## FDA BIOTERRORISM

The Food and Drug Administration (FDA) recently indicated there is an approximately 50% error rate on compliance under the FDA Prior Notice submissions. However, no notices have been provided yet to importers. Clients are encouraged to closely monitor their entries subject to [Prior Notice](#) to ensure complete compliance.

- Rule change - no registration is required for facilities that only store or manipulate food for export. 69 Fed. Reg. [4851](#) (Feb. 2, 2004).

- FDA issued an updated [FAQ](#) on Facility Registration.

## INFORMED COMPLIANCE

Customs updated two Informed Compliance Publications on its web site on [Customs Administrative Enforcement Process: Fines, Penalties, Forfeitures and Liquidated Damages](#) and [Mitigation Guidelines: Fines, Penalties, Forfeitures and Liquidated Damages](#).

## GSP DESIGNATION

Presidential Proclamation [7758](#) (March 1, 2004) designates Algeria as a GSP beneficiary developing country as of March 16, 2004; terminates GSP duty-free benefits for EU Accession countries (Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, and Slovakia) on May 1, 2004; terminates Antigua and Barbuda, Bahrain, and Barbados as GSP beneficiary developing countries as of January 1, 2006.

## EXPORT HTS RESTRICTIONS

The Census Bureau has established [174 HTSUS](#) numbers that are not valid for reporting exports as of January 1, 2004. If an exporter using AES attempts to use an invalid HTS number, their shipment will be rejected.

## PASSPORTS

None of the 27 countries scheduled to participate in the visa-waiver program will be able to supply the machine-readable passports to their citizens by the proposed October 26 deadline. Expect delays to result for necessary visas, because the State Department is not equipped to issue the large number of expected visa requests.

## HTSUS CORRECTIONS

The ITC has published a list of known errors in the [2004 HTSUS](#).

## APHIS - SWPM

The [APHIS](#) issued a proposed rule requiring imported solid wood packing material (SWPM) to be either heat treated or fumigated with methyl bromide, consistent with international standards. China, Korea and the European Union have also notified the World Trade Organization of their intent to adopt measures in line with the above standards.

## BOND AMOUNTS

The CIT recently upheld a decision by Customs to raise an Importer's \$80,000 continuous bond to \$3,000,000 based upon CD 99-3510-04. It held that the Directive was "not necessarily inconsistent" with the individualized discretion contemplated by 19 C.F.R. § 113.13. Expect unusually low Importer Bonds to rise. [Carolina Tobacco Co. v. United States Customs Service Slip Op 04-20](#) (Mar. 4, 2004).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/04		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	259	246
SUBZONES	530	449
	PENDING	
ZONES	2	
SUBZONES	12	
MISCELLANEOUS	31	
	AVERAGE PROCESSING TIME (MONTHS)	
ZONES	7	
SUBZONES	8	