

# BRIEFINGS

ROUTING SLIP

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## ORIGIN STANDARD CHANGE

Treasury is considering a Notice of Proposed Rulemaking in order to implement a fundamental change in country of origin requirements. At the time of NAFTA, consideration was given to replacing the "substantial transformation" standard in Part 134 of the Customs Regulations with the NAFTA tariff-shift rules in Part 102 for all imports. The change was not adopted because of significant opposition. Treasury now believes the proposed change will eliminate inconsistent results, be less costly to administer, give companies only one system to administer, and provide less subjective results. Based on our work with clients, we expect some significant costs and difficulties under a tariff-shift standard. Companies should prepare to comment in detail. The firm has developed a detailed [memorandum](#) on the subject. Please contact Sean Murray or Tom Lobred with any questions.

## NAFTA MARKING RULING

Customs has proposed the revocation of a ruling on the NAFTA origin rules in 19 C.F.R. Part 102. In proposed HQ 967946, Customs determines the origin for NAFTA purposes based on the essential character of the good, and limits application of the "NAFTA Preference Override" 19 C.F.R. 102.19 to determining the country of origin for duty purposes. Comments are due April 21. [40 Cust. B. & Dec. 13](#) (March 22, 2006).

## MISC. TRADE ACT

The House of Representatives passed the Miscellaneous Trade and Technical Corrections Act of 2006 on March 15, 2006. ([H.R. 4944](#)) and the legislation is now pending in the Senate Finance Committee. There is no timetable for 2006 Senate action. In addition to hundreds of duty suspensions, other provisions in the House version include an expansion beyond five years of the time that merchandise may remain in a bonded warehouse, a proposal to allow refunds prior to liquidation by an importer of record regardless of whether a clerical error exists as is now the case, and permission to reliquidate certain entries for tramway cars and parts, candles, roller chains, pasta, and clock radios.

## GSP RENEWAL

House Ways and Means Chair Bill Thomas has suggested that the [Generalized System of Preferences](#) program (GSP) should be allowed to expire at the end of 2006 and that many larger countries such as Brazil, Pakistan and others should not be included in the program.

## ACTUAL USE ENTRIES

Customs has issued an Administrative Message advising filers that entries requiring an actual-use declaration may not be submitted using either Remote Location Filing or the Electronic Invoice Program. ADM [06-0378](#) (March 28, 2006).

## NAFTA RULES OF ORIGIN

The Administration continues to liberalize NAFTA Rules of Origin.

- The ITC has requested comments on proposed changes to the NAFTA Rules of Origin for a variety of articles, including food preparations, petroleum products, diesel engines, turbines, batteries, medical equipment, and others. Comments must be received by June 2, 2006. 71 Fed. Reg. [16345](#) (March 31, 2006).
- On March 13, the International Trade Commission (ITC) issued its [report](#) on proposed modifications to the NAFTA Rules of Origin for woven cotton boxer shorts.
- The firm is in the process of producing a detailed memo on the subject. Available soon.

## C-TPAT

As a result of the Dubai Ports fiasco, a variety of legislation has been introduced to enhance the security of ports and imported cargo. C-TPAT will no longer be "voluntary" and will become in some manner federal law. Clients are advised not to become complacent with C-TPAT after undergoing a validation, as Customs has suspended C-TPAT members whose shipments are found to be compromised

## FTAs

The USTR is busy negotiating a number of FTAs. Details on the FTAs being negotiated and the implementation status of previously approved FTAs may be found on our web site.

## AES CONCERNS

The recently signed USA PATRIOT Act Reauthorization included a provision raising the maximum basic civil fine for violations of the International Emergency Economic Powers Act (IEEPA)—which serves as the statutory basis for the Export Administration Regulations while the Export Administration Act is lapsed—from \$11,000 to \$50,000 per violation, and the criminal penalty for willful violations from 10 to 20 years imprisonment.

## EXPORT FINES

Boeing has [agreed](#) to pay \$15 million and Goodrich and L-3 Communications have [agreed](#) to pay a combined total of \$7 million in fines and remedial expenditures and accept certain administrative oversight procedures to settle numerous alleged violations of the ITAR relating to exports of products containing QRS-11 quartz rate sensors.

## BIS "MAJOR CASES"

The BIS has updated its "[Major Cases List](#)" of significant export control violation cases, reflecting large criminal and civil penalties against companies and individuals for alleged violations.

## DFARS BUY AMERICAN RULE

The Department of Defense has proposed amending the Defense Federal Acquisition Regulations Supplement (DFARS) to exempt acquisitions of commercial information technology from the Buy American Act requirements. Written comments must be submitted by June 12, 2006. 71 Fed. Reg. [18694](#) (April 12, 2006).

## STATE/LOCAL TAXES

The proposed [Business Activity Tax Simplification Act](#) would implement a physical-presence standard for tangible personal property creating a potential business-activity tax liability for companies. Clients are urged to make certain their tax departments are aware of the legislation.

## WPM & ISPM 15

• Customs has updated its [frequently asked questions](#) on wood packing materials (WPM) treatment and marking regulations. Phase III of the regulations implementation starts July 1, 2006, and includes mandatory exportation of shipments containing violative or infested WPM. However, when a consolidated shipment contains non-compliant WPM, an interested party may request that the non-compliant WPM be separated from the rest of the shipment and exported subject to specific procedures, with compliant WPM and the cargo being released.

• The Animal Plant Health Inspection Service (APHIS) has [updated information](#) on other countries' ISPM 15 treatment and marking requirements for WPM.

## EU-FSC RETALIATION

The EU has indicated that it will re-impose trade sanctions against \$2.4 billion in U.S. imports in retaliation for a transition period and grandfather clause in the law repealing the Foreign Sales Corporation (FSC) tax system that have been found to not comply with earlier WTO rulings against the FSC law. Products that will be affected by the retaliatory tariffs include agricultural items, textiles, industrial and electronic products, paper products, and steel.

## APHIS ePERMIT SYSTEM

The Animal and Plant Health Inspection Service (APHIS) has announced its "ePermits" system that, effective April 3, 2006, allows electronic filing, processing, and tracking of [permit](#) applications for certain plant protection and quarantine (PPQ) and biotechnology and regulatory services (BRS) notifications.

## CANADIAN EXPORT ONLINE

International Trade Canada has rolled out its "[Export Controls Online](#)" (EXCOL) System [Requirements](#), including browser standards, operating systems, and document formats.

## CHINA EXPORT CONTROLS

The Bureau of Industry and Security (BIS) is currently [drafting](#) a new regulation that will require a license to export otherwise uncontrolled items to China when the exporter knows at the time of the export that the items are destined for a military end-use.

## ADVANCE CARGO INFO

Customs has issued a revised version of its frequently asked questions ([FAQ](#)) and responses on its final rule.

## EGL SUSPENSION LIFTED

The U.S. Army and State Department have lifted their bar against Eagle Global Logistics (EGL) from participating in U.S. Government contracting, after EGL signed an Administrative Compliance Agreement.

## SEA CARRIER C-TPAT STDS

Customs has issued its implementation plan for the new [minimum-security criteria](#) for sea carrier participants in C-TPAT. All sea carriers currently enrolled will have 90 days from March 1, 2006 to meet or exceed the criteria.

## FOREIGN TRADE BARRIERS

The Office of the United States Trade Representative (USTR) has [issued](#) the 2006 *National Trade Estimate Report on Foreign Trade Barriers*, documenting foreign trade and investment barriers and U.S. efforts to reduce and eliminate them.

## 7501 INSTRUCTIONS

Customs has published updated [instructions](#) for completing the Entry Summary (CBPF 7501).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 4/15/06		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	267	253
SUBZONES	576	478
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PENDING		
ZONES	3	
SUBZONES	17	
MISCELLANEOUS	34	
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AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	