

# BRIEFINGS

ROUTING SLIP

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## FTZ BOARD HEARING

On April 18, 2007, the U.S. Foreign-Trade Zones (FTZ) Board held a hearing on a pending subzone application for MPM Silicones, LLC (MPM). The hearing was requested by a domestic supplier to MPM, who asserted that MPM's use of an FTZ could circumvent antidumping policy. This type of hearing has not been held by the Board for many years. The comment period for the case was extended to June 6, 2007, to allow for submission of comments after the public hearing. 72 Fed. Reg. [24272](#) (May 2, 2007).

## PARENT COMPANY LIABILITY

Legislation has been introduced in the Senate to hold parent companies liable for their subsidiaries' violations of U.S. export control laws. The "Stop Business with Terrorists" bill, [S. 1234](#), has been assigned to a Senate committee for consideration.

## FORD VALUE CASE

On remand from the Court of Appeals for the Federal Circuit, the U.S. Court of International Trade has issued a judgment assessing Ford's liability at approximately \$17.63 million plus interest for the CAFC's 2006 decision that Ford was liable for the negligent misrepresentation of the value of import entries under 19 U.S.C. § 1592(c)(3). [U.S. v. Ford](#), CIT Slip Op. [07-66](#) (May 7, 2007). The subject should be carefully considered.

## 2007 SEMINAR SCHEDULE

- Client-only free seminars are scheduled for:
  - June 20-21: FTZ 101 (waiting list only)
  - October 2 - Customs/Trade/FTZ Developments - during NAFTA Convention.
  - Nov. 28-29: Import/Export 101
- By client demand, we are scheduling three more Seminars in 2007. Client only \$1,000 advanced Seminars are scheduled for:
  - Sept. 18-19 - Exports
  - Oct. 23-24 - Classification
  - Dec. 13-14 - Value
- More information is available on our web site. All seminars are on a first-come, first-served basis. Register now by e-mail to Kelly Galate at [kgalate@millerco.com](mailto:kgalate@millerco.com).

## EU ADDED TARIFFS

The European Union (EU) has imposed a retaliatory 15% duty on 32 specific U.S. goods imported into the EU. The extra duty is in response to the U.S. failure to repeal the Byrd Amendment, making a total of 58 [U.S. goods](#) subject to the retaliatory duty.

## FTA STANDARDS AGREED

Congressional leaders have [announced](#) an agreement with the Administration on free trade agreement standards, including requirements on [labor](#), the [environment](#), [generic drugs](#), and [other issues](#). Columbia, Panama, Peru, and South Korea FTAs may be authorized.

## TRANSFER PRICING

Customs has published an Informed Compliance [Publication](#) on related party valuation. It potentially puts related-party importers at risk by stating that an importer who relies on an Advanced Pricing Agreement or Transfer Pricing Study to support its transaction value would not be exercising reasonable care. This could lead to more inquiries concerning transfer prices. Contact Tom Lobred or Sean Murray with questions.

## CHINA C-TPAT

Customs is beginning a "[Third Party](#)" [Validation Program](#) for C-TPAT importers who buy 75-100% of their goods from China. There will be "Third Party" Validators that selected volunteer importers can use to conduct the foreign portion of their C-TPAT validation. This pilot program is a requirement of the "Security and Accountability Act of 2006."

## SPECIAL 301

The USTR released the results of its 2007 "[Special 301](#)" annual report on intellectual property rights (IPR) protection on April 30, 2007.

## CHINA PROTEIN ALERT

The FDA has issued an [import alert](#) on all vegetable protein products shipped by Chinese manufacturers that is to be used for either animal or human food production. Expect further Chinese import restrictions.

## CBP STAFFING

The General Accounting Office (GAO) has published a [report](#) criticizing Customs for not maintaining the mandated level of staffing in revenue positions. The report recommended that Customs develop a workforce plan and report on revenue performance measures in agency performance reports. Another identified issue was a significant decrease in the number of auditors.

## AIR CARGO

A huge gap between government trade security programs may be closing. The General Accounting Office issued a [report](#) on Aviation Security that recommended that DHS direct the Transportation Security Administration (TSA) and Customs to develop a risk-based strategy, e.g., to address inbound cargo security, take steps to address weaknesses, and develop a systematic process for ensuring communication between TSA and Customs.

## MEXICAN TRUCKS

The start date for allowing Mexican trucks on U.S. highways has been temporarily delayed as a result of multiple factors, including a [lawsuit](#) filed by the International Brotherhood of Teamsters and Congressional action. Congressional action, called the Safe American Roads Act ([H.R. 1773](#)), would establish safety requirements and benchmarks for Mexican trucks and an oversight requirement.

## FDA RESTRUCTURING

The Food and Drug Administration (FDA) has stated that it intends to restructure its process for product code classifications by establishing a compliance team at FDA Headquarters. FDA's 16 existing import districts often issue conflicting product code classifications for the same product. The restructuring is intended to increase uniformity and provide the Trade with a central point of contact.

## D-TRADE UPDATE

The State Department's Directorate of Defense Trade Controls (DDTC) has announced that, effective May 1, 2007, it will accept only electronic versions of license applications through D-Trade. Amendments, at this time, will still be accepted in paper form.

## MILITARY DUTY-FREE CERTS

The Defense Contract Management Agency (DCMA) has created a new web-based [application tool](#) to request duty-free certificates for entry of goods under 9800.00.30.

## ACE UPDATES

Customs has [announced](#) that ACE Entry Summary, Accounts and Revenue A1 (ACE ESAR A1) will be implemented on August 11, 2007. Some of the benefits include account-related data, new account types, and the electronic CBP Form 5106. Participating Government Agencies will be able to store blanket License, Permits, and Certificate data, and some Broker data will be maintained at the national level. In addition, ACE users will need only one ID and password.

## ANTIDUMPING

The International Trade Administration (ITA) has revised the antidumping duties in 11 of 12 investigations of certain steel and pasta goods from the European Union (EU), as a result of the successful EU challenge in the WTO to the ITA's use of 'zeroing' in antidumping cases.

## SOFTWOOD LUMBER

Customs has posted [FAQs](#) regarding the U.S.-Canada Softwood Lumber Agreement (SLA 2006). They also stated that they will begin aggressively enforcing the SLA requirements in the coming months.

## EU—ASIA FTA

The European Union has [announced](#) that it will begin FTA talks with India, South Korea, and a 10-nation group of Southeast Asian nations.

## FTA—KOREA

- The U.S. ITC has announced initiation of an investigation into the likely impact of an FTA with Korea. A public hearing is scheduled for June 7, 2007, and written comments are due on June 21, 2007. 72 Fed. Reg. [25779](#) (May 7, 2007).
- The U.S.-Korea FTA text has not yet been released. The Office of the USTR indicated that it may be "another few weeks."

## COMMUNICATION CHANGES

Customs is replacing the communication services it currently uses to interface older programs to the Automated Commercial System (ACS) and Automated Export System (AES). The new solution will use an Internet Protocol (IP) service. Trade will need to switch to one of the [five methods](#) offered by Customs.

## U.S.—MEXICO AGREEMENT

The Department of Energy announced on April 16, 2007, that the U.S. and Mexico signed an [Agreement](#) to detect and prevent smuggling nuclear and other radioactive material.

## AUTOMATED INVOICES

Customs has issued Administrative Message [07-0102](#) (April 30, 2007) reminding the importing community that, when automated invoices are transmitted to Customs, a separate invoice line item is required for each tariff classification.

## CHINA DUAL-USE EXPORTS

BIS has posted [information](#) on dual-use exports to China requiring a license.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/07		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	271	257
SUBZONES	596	496
PENDING		
ZONES	1	
SUBZONES	16	
MISCELLANEOUS	22	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	