

BRIEFINGS

ROUTING SLIP

FTZ PAPERLESS EXPORT

The program is discontinued as of July 1, 2003. Clients have three alternate methods of initiating bonded exports and zone-to-zone transfers. Access "[What's New](#)" on our Web site for the Bureau of Customs and Border Protection explanatory memorandum. Contact Linda King for further information.

TRANSFER PRICING

In a significant new development, the Internal Revenue Service (IRS) has announced an initiative where it will analyze declared import or export Customs values. Values outside the "normal" range for products in the reported classification may subject these taxpayers to a transfer pricing audit.

CHINESE SAFEGUARDS

The Bush Administration has issued rules for initiating Safeguard Actions against Chinese imports. The rules include data required, who may request the safeguard, and a thirty-day public comment period. [68 Fed. Reg. 27787](#) (May 21, 2003).

CUSTOMS BEST PRACTICES

The Regulatory Audit Division has posted to its Web site "[Best Practices of Compliant Companies](#)." It provides a useful checklist for structuring Customs compliance operations.

ADVANCED MANIFESTS

The Bureau of Customs and Border Protection has [posted](#) to its Web site an update on the regulations for the mandatory advance collection of manifest data for air, truck, and rail transport. The regulations are expected to be promulgated in June and go into effect in September.

WTO VALUATION

We have been informally advised by United States Trade Representative (USTR) personnel that a number of developing countries, led by India, have been urging revisions to the World Trade Organization Valuation Agreement. These efforts would create a number of potential problems for United States exporters. If you are concerned about these issues, we have prepared a draft letter to the USTR for you to consider submitting in support of the existing World Trade Organization Valuation Agreement. Access "[What's New](#)" on our Web site for the draft letter. Please contact Thomas Lobred if you have any questions.

MDR

Customs has issued a ruling holding that importers who do not file a CF 5931 (Manifest Discrepancy Report) within sixty days of discovering a concealed case shortage are not eligible for a refund of duties or taxes paid on this shortage. [HQ 115595](#) (March 25, 2003).

FTZ TRAINING

The Firm is holding a no charge training seminar for active Foreign-Trade Zone Operator clients on July 22 and 23, 2003. For further information access "[What's New](#)" on our Web site.

FDA BIOTERRORISM

- On May 27, the Food and Drug Administration (FDA) and Bureau of Customs and Border Protection [announced](#) that they will streamline the implementation of the prior notice requirements of the Bioterrorism Act by allowing food importers to provide required information on food imports to both agencies using a single, integrated process through the Automated Commercial System.
- The FDA is requiring all exporters of food and beverage products to the United States to appoint a U.S. Agent for their products and register the Agent with the FDA by December 12, 2003. [68 Fed. Reg. 5377](#) (Feb. 3, 2003).

ICE REORGANIZATION

The Bureau of Immigration and Customs Enforcement (ICE) is [reorganizing](#) into a structure that will support the distinct operational divisions of the Bureau. The divisions are: Investigation, Detention and Removal, Intelligence, Air and Marine Interdiction, and Federal Protective Service. All divisions will report to the Assistant Secretary of ICE (currently held by Acting Secretary Michael Garcia).

TREASURY DELEGATION

The Treasury Department has issued Order No. [100-16](#), delegating certain Customs revenue functions from the Treasury Department to the Department of Homeland Security (DHS). The order is subject to review on May 14, 2004, and Treasury reserves its right to act based on its statutory authority.

DOCUMENT TIMING

Two recent Court decisions re-enforce the importance of timing:

- In *U.S. v. Inn Foods*, ([Slip Op. 03-50](#)) the CIT ruled that a produce importer did not owe Customs \$625,000 because of the statute of limitations on the claim. Customs filed its complaint two years and one day after the two year statute of limitations had expired.
- In *Daniel Atteberry v. U.S.*, ([Slip. Op. 03-53](#)) the CIT denied Customs' motion to dismiss, holding Mr. Atteberry's civil action filing was done in a timely manner. Mr. Atteberry filed his civil action with the CIT within the 180-day period based on the "postmark date" not the date on Customs' denial letter.

EXPLANATORY NOTES

The World Customs Organization (WCO) has issued an amending supplement ([No. 3, dated February 2003](#)) to the Harmonized System Explanatory Notes (ENs). The amendments cover HS 1504, 1522, 2804, 2933, 3210, 4414, 4415, 4417, 4418, 4419, 4420, 4421, 4802, 4810, 5910, 6212 other made up textile articles in HS Chapter 63 (including dress patterns in 6307), 7017, 8450, 8451, 8471, 8472, 8514, 8517, 8519, 8520, and 8542.

HTS CORRECTIONS

The USTR has issued a notice to correct several "inadvertent errors and omissions" in Harmonized Tariff Schedule of the United States (HTSUS) steel safeguard subheadings 9903.72.30 through 9903.74.24. [68 Fed. Reg. 34462](#) (June 9, 2003).

DUAL-USE EXPORTS

- The Bureau of Industry and Security (BIS) is accepting comments on its proposed "*Best Practices for Exporters/Reexporters and Trade Facilitation/Freight Forwarding Companies regarding the Transit, Transshipment, and Reexport of Dual-Use Items.*" Comments are due June 16, 2003. [68 Fed. Reg. 26567](#) (May 16, 2003).
- BIS has issued a [guidance](#) document covering licensing requirements for re-exports involving U.S. origin items.
- BIS has issued a final interim rule, effective June 6, 2003, that reflects the current practice of requiring an export license for the export or re-export for all items subject to the EAR, including EAR 99 items, to specially designated terrorists (SDT) and foreign terrorist organizations (FTO). [68 Fed. Reg. 34192](#) (June 6, 2003).

HMT INTEREST DENIAL

The U.S. Supreme Court has refused to hear an appeal by U.S. Shoe Corporation to review the Court of Appeals for the Federal Circuit's (CAFC) decision holding that exporters are not entitled to prejudgement interest on refunds of the Harbor Maintenance Fee (HMF). *U.S. Shoe Corp. v. United States* (71 U.S.L.W. 3734)(May 27, 2003)(No. 02-1221).

IRAQ SANCTIONS

On May 23, the Office of Foreign Assets Control (OFAC) [lifted](#) most U.S. economic sanctions against Iraq. Iraq can now trade freely with the exception of certain goods. Transactions with the Baath Party and certain other Iraqi officials are still prohibited.

CANADIAN EXPORT PERMITS

On June 3, the Canadian Department of Foreign Affairs and International Trade (DFAIT) [announced](#) that it replaced its existing permit processing system (IPPS) with a new automated Export Import Controls System (EICS).

DHS-IMMIGRATION

The DHS will install a new entry system at United States borders for nearly all United States visitors. The new [US VISIT](#) system will be installed by Jan. 1, 2004 and will be based on visas that include biometric identifiers (initially fingerprints and photographs) embedded in the traveler's documents.

FTA

- The United States-Chile Free Trade Agreement (FTA) was [signed](#) on June 6, 2003.
- The United States and Australia have intensified efforts to complete an FTA by the end of 2004. Agricultural issues continue to be a challenge.
- As part of President Bush's proposed United States-Middle East Free Trade Area, the White House has announced that FTA negotiations with Bahrain will begin soon.

APHIS SWPM

APHIS is proposing to adopt the "Guidelines for Regulating Wood Packaging Materials in International Trade." Comments are due July 21, 2003. [68 Fed. Reg. 27480](#) (May 20, 2003).

CANADA MAD COW DISEASE

The [U.S. Department of Agriculture](#) placed Canada under its Bovine Spongiform Encephalopathy (BSE) restriction guidelines on May 20 after a cow in Alberta, Canada, was confirmed to have BSE. The U.S. is currently not accepting any cattle, sheep, goat, or deer ruminants or ruminant products from Canada.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 6/15/03		
ZONES SUBZONES	CURRENTLY APPROVED AUTHORIZED	
	255	242
527	444	
PENDING		
ZONES	3	
SUBZONES	21	
MISCELLANEOUS	27	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	10	
SUBZONES	10	