

BRIEFINGS

ROUTING SLIP

2007 HTSUS MODIFICATIONS

The International Trade Commission has issued Publication 3851 on the proposed modifications to the 2007 HTSUS, affecting 83 Chapters and more than 240 tariff headings. While some changes are statistical, others are not. Clients are urged to review the proposed modifications. We are analyzing the impact of these modifications for clients.

CUSTOMS 2006 PRIORITIES

Customs recently published its 2006 priorities, including gaining operational control of land borders between ports of entry, preventing the entry of terrorists at the ports of entry, strengthening supply chain security, facilitating legitimate trade and travel, strengthening risk-based operational decision-making and resource allocation, implementing WCO Framework of Standards, strengthening technology acquisition and deployment, strengthening employee base and integrity assurance, and unifying as one border agency.

NEW ORLEANS FTZ

We recently established a zone site in New Orleans to support the retention of a distribution operation that remained in that area after Hurricane Katrina. The FTZ Board approved the boundary modification request in less than two weeks. We are hopeful more new business activity will occur in the areas impacted by the hurricane in the immediate future.

IMPORT/EXPORT ANALYSES

We believe that purchasing government transaction records is one of the most effective means of identifying import/export compliance concerns. The Firm can assist in obtaining the data from the Office of Strategic Trade (OST), National Finance Center (NFC), and Census, and in providing a detailed analysis.

FTA/TPP PACKAGE

The firm has prepared a comprehensive CD-ROM package that provides complete resource and basic guidance documents for clients to implement an effective compliance program for all existing Free Trade Agreements and Trade Preference Programs. Detailed information is available on our website. Contact Scott Taylor in our office for more information.

C-TPAT PORTAL

Customs has announced that the C-TPAT Portal is now available and published a timeline by which all participants must update their profiles or be removed from the program. The information that must be entered is very extensive and the deadline for importers to have the Portal updated is July 31. All new C-TPAT applications must be submitted via the Portal. We are working with several clients to update their C-TPAT program and populate the Portal. Contact Michael Utchell for information on how we can assist your Company in meeting the July 31 deadline.

PHARMA APPENDIX

The long-awaited next round of additions to the Pharmaceutical Appendix is finally under formal government review. Comments on the proposed additions are due by June 21. 71 *Fed. Reg.* 34643 (June 15, 2006).

CUSTOMS COMMISSIONER

- W. Ralph Basham, new U.S. Customs and Border Protection Commissioner, was sworn in June 6th on the Mexican border in Artesia, N.M. with President Bush in attendance.
- Commissioner Basham spoke at AAEL's annual conference on June 13, pledging to support the "twin goals" of security and trade facilitation, while noting that CBP's "critical mission" is preventing terrorists and terrorists' weapons from entering the U.S.

CARGO SECURITY

The Journal of Commerce has reported that Customs will soon publish proposed rules requiring importers and carriers to electronically file additional data elements under the 24-hour rule.

CCL PHARMA CONTROLS

BIS has amended the Commerce Control List (CCL) to create a new Export Control Classification Number (ECCN) for certain biological agents and toxins, and to clarify that certain FDA approved Investigational New Drugs (IND) are "medical products" in ECCN 1C991. 71 *Fed. Reg.* 33614 (June 12, 2006).

BIS ADVISORY OPINION

The Bureau of Industry and Security has issued an Advisory Opinion on "ultimate consignees" in export transactions that conflicts with provisions of U.S. export law and potentially creates significant confusion and compliance issues for exporters. The Opinion holds that for an export to company "A" with knowledge that company "A" is going to reexport the good to company "B" in a third country, the ultimate consignee is company "A"—which is contrary to provisions of U.S. export law and common practice.

MANDATORY AES

Census and Homeland Security continue to disagree over matters affecting implementation of mandatory AES, specifically, post-departure filing and information sharing with foreign governments. Unless clients decide to take strong Congressional measures, expect Homeland Security to win.

ECCN DETERMINATION TOOL

A new tool to assist exporters in determining the export control classification number (ECCN) of exported products is under development. The tool correlates HTSUS/Schedule B numbers to potential ECCNs by examining historical Census data. This is not a fool-proof answer to ECCN clarifications as there is not a simple HTS/ECCN correlation for many reasons. Additional diligence must be undertaken to fully support any ECCN determination.

DEEMED EXPORT RULE

Due to heavy criticism, the BIS has withdrawn the proposed rule that would have based licensing determinations on a person's country of birth. 71 *Fed. Reg.* 30840 (May 31, 2006)

CUSTOMS BROKER EXAM

Customs has announced that the next Customs broker license exam will be held October 3, 2006.

FREE TRADE AGREEMENTS

- The U.S. and South Korea have begun FTA discussions, with agricultural market access and automobile tariffs being areas of expected concern for the U.S.
- The U.S. has suspended free trade negotiations with Ecuador.
- The U.S.-Peru FTA was signed on April 12, 2006, with passage by both the U.S. and Peruvian Governments pending.
- The USTR has released the text of the FTA with Colombia.

BIS "OUTREACH" VISITS

In a Charging Letter to Ingersoll-Rand (IR) that led to a \$680,000 settlement penalty, the Bureau of Industry and Security (BIS) based many of its charges in part on the fact that BIS officials had made "outreach" visits to IR and advised the company of BIS export regulations. BIS used the visits—and statements made by IR's export compliance coordinator during the visits—as proof of IR's "knowledge" of the violations. Clients are advised to be very careful when BIS seeks to "reach out" to them.

NEW ICPs

Customs has issued new Informed Compliance Publications (ICPs) on the classification of "Stranded Wire, Rope and Cable, of Iron or Steel" (May 2006) and "Base Metal Mountings and Fittings" (June 2006).

ENVIRONMENTAL GOODS

The United States Trade Representative (USTR) has announced that the U.S. joined six other World Trade Organization members in submitting a proposal for eliminating tariffs and non-tariff barriers to environmental goods such as solar panels and wind turbines.

PIPELINE ENTRIES

Customs has posted questions and answers on monthly consolidation of pipeline entries policies and procedures.

BYRD AMENDMENT

- Customs has announced its intention to distribute antidumping and countervailing duties (AD/CVD) under the Byrd Amendment and issued instructions for affected domestic producers to file claims, which must be received by July 31. 71 *Fed. Reg.* 31336 (June 1, 2006).
- Customs has also posted by Case Number the amount of AD/CVD to be distributed.

SINGLE ENTRIES

Customs has announced that, under certain conditions, importers may submit a single entry to cover multiple portions of a single item that, due to its size or nature, arrives in the U.S. on separate conveyances. The effective date is July 3, 2006. 71 *Fed. Reg.* 31921 (June 2, 2006).

EU TARIFFS REVOKED

In response to the repeal of the grandfather clause of the Foreign Sales Corporation (FSC) Act, the European Union has decided not to reintroduce retaliatory tariffs on U.S.-origin merchandise. The retaliatory tariffs were initially imposed after the WTO ruled that the FSC Act constituted an illegal subsidy.

SUGAR CLASSIFICATION

The Court of International Trade has ruled that a blend of 98% sugar and 2% gelatin is classifiable in HTSUS subheading 2106.90.94 as a food preparation containing over 65% sugar with a duty rate of \$0.288 per kg plus 8.5%, as opposed to the importers asserted classification as a gelatin product with a duty rate of 4.8%. Slip Op. 06-74.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 6/15/06

	<u>APPROVED</u>	<u>CURRENTLY AUTHORIZED</u>
ZONES	270	256
SUBZONES	579	481
	<u>PENDING</u>	
ZONES	0	
SUBZONES	19	
MISCELLANEOUS	28	
	<u>AVERAGE PROCESSING TIME (MONTHS)</u>	
ZONES	9	
SUBZONES	10	