

BRIEFINGS

HOMELAND SECURITY

There is no clear understanding of when or in what form a Department of Homeland Security (DHS) will evolve.

- The House Committee on Ways and Means voted to pass an amendment to H.R. 5005 to maintain Customs' commercial operations in a smaller, core agency within DHS. Additionally, this amendment provides that fees and other revenues collected from the trade remain dedicated to funding Customs' commercial operations, such as ACE. The same committee also voted to keep the Coast Guard in the Transportation Department and split the Immigration and Naturalization Service between the DHS and the Justice Department.

- The House Agriculture Committee recommended that only the units of the Animal Plant Health Inspection Service (APHIS) that are involved with agricultural import and entry inspection activities be moved to the new DHS.

C-TPAT

Currently, approximately 230 firms have signed agreements. Customs' security concerns are permanent. The C-TPAT requirements are not fixed and will change over time. Customs has opened participation in C-TPAT to brokers, forwarders, and carriers on July 15, 2002. The firm is assisting many clients on this issue.

SEAN T. MURRAY

Sean Murray, former Associate in the Kansas City, Missouri office, has become a partner of the firm.

TRADE ACT

The House of Representatives passed a revised version of the Trade Act of 2002 on June 26th by a vote of 216-215. The legislation has been sent to a House/Senate conference to reconcile the differences between the versions by month end. There are many controversial provisions. [H.R. 3009](#) as amended by H.Res.450 (June 26, 2002).

FTZ PAPERLESS CF 7512

Customs issued a Memorandum to Field Operations on June 21, 2002 that officially extends the paperless CF 7512 (Alternate T&E) program for in-bond movements until further notice. Access ["What's New"](#) on our website.

FTZ-NAFTA

An "08" Agreement to allow importers, at their discretion, to include FTZ manufactured product shipped to Canada/Mexico on an "06" entry instead of an "08" entry has been signed. Customs has issued instructions to the Field, and Census has programmed the required special "ZD" code into the AES system. Access ["What's New"](#) on our website for a firm explanatory memorandum.

PORT SECURITY

S.1214, as passed by the Senate December 20, 2001 and the House June 4, 2002, contains a complex variety of provisions. There are at least four versions of data element requirements at the first port of unloading to be resolved in a House/Senate conference. Clients are urged to contact their Congressmen to oppose any language requiring the HTS 6-digit classification of goods to be filed electronically prior to the arrival of goods at the first port of unloading.

CUSTOMS BUSINESS

As a result of a recent meeting with members of the importing community, including the NCBFAA, and the Assistant Commissioner-designate of the Office of Regulations and Rulings, Michael Schmitz, it was decided to recommend to the Commissioner the revocation of HQ rulings including 115248 and 115278, the recent rulings that may prohibit companies with multiple business units from centralizing their Customs compliance functions. Expect a formal notice of revocation and modification to be published in the *Federal Register* soon.

AD DISTRIBUTION

The U.S. Customs Service has issued a notice of the distribution of dumping subsidies that would be allocated to affected domestic producers. 67 Fed. Reg. [44722](#) (July 3, 2002).

DUTY SUSPENSION

The Senate Finance Committee posted a notice to its website requesting public comments on over 200 duty suspension and miscellaneous technical measure bills followed by a notice on 13 additional bills. Comments on all bills are being requested by July 19, 2002. Access "[What's New](#)" on our website.

APHIS

The USDA's Animal and Plant Health Inspection Service (APHIS) has issued a Proposed Rule that would amend 7 C.F.R. 330.105 to state that if any conveyance, product, or article subject to inspection under this section is released before an APHIS inspector has had the opportunity to inspect it, the APHIS inspector may order re-delivery directly to the first port of arrival or another location specified by APHIS. Comments are due by August 19, 2002; clients are encouraged to submit comments. 67 Fed. Reg. [41868](#) (June 20, 2002).

STEEL DUTY EXCLUSIONS

The U.S. Trade Representative posted new sets of steel exclusion requests on its website. Completed objection questionnaires for these items are due to the USTR over the next few weeks depending on the date of the exclusion notice. The Bush Administration has extended, until August 31st, the deadline for Commerce and the USTR to complete this process. Access "[What's New](#)" on our website.

COUNTERFEIT MARKS

Customs has published a proposed amendment to the Customs Regulations to clarify the limit on the amount of a civil fine that Customs may impose when merchandise bearing a counterfeit mark is imported. 67 Fed. Reg. [39321](#) (June 7, 2002).

TAX REFORM

The American Competitiveness and Corporate Responsibility Act of 2002 ([H.R. 5095](#)) should be carefully examined by all import/export firms. It goes far beyond the necessity for correcting the FSC problem. It appears to penalize U.S. exporters and provide benefits to U.S.-based firms with overseas plants. It attempts to stop U.S. corporate inversion (i.e., incorporating in an offshore tax haven). U.S. subsidiaries of foreign corporations would have a number of current tax benefits eliminated. Expect no quick action.

FDA

- The Food and Drug Administration (FDA) has issued a proposed rule to amend its regulations on the exportation of investigational new drugs, including biological products. Comments are due by September 17, 2002. 67 Fed. Reg. [41642](#) (June 19, 2002).
- As stated in last month's *Briefings*, comments are due August 6, 2002 on Customs proposed rule to clarify the responsibilities of importers of food, drugs, devices and cosmetics and to provide a 180-day limit on FDA "conditional releases." We encourage clients to file comments. 67 Fed. Reg. [39332](#) (June 7, 2002).

BIS "UNVERIFIED LIST"

The Bureau of Industry and Security (BIS) has issued a list of persons who were parties in past transactions where pre-license checks (PLCs) or post-shipment verifications (PSVs) could not be conducted. Export transactions involving such persons is considered a "red flag" requiring an affirmative duty to further verify these persons so that the transaction does not violate 15 C.F.R. § 744 or other provisions of EAR. Access "[What's New](#)" on our website.

ISA

Customs' Importer Self-Assessment (ISA) program should be carefully studied by clients as it requires a very high level of management control of the import process. While the benefits appear significant, the requirements appear to exceed most importers' capabilities. A Handbook with a very detailed explanation that includes the Application and Memorandum of Understanding may be found at <http://www.customs.gov/imp-exp1/comply/isahb.pdf>. 67 Fed. Reg. [41298](#) (June 17, 2002).

HTSUS

Numerous changes have recently occurred. Office of the United States Trade Representative technical corrections and new subheadings. 67 Fed. Reg. 38541 (June 4, 2002). Customs' statistical changes to the HTSUS. CEBB T-HTS701.TXT (July 1, 2002). International Trade Commission (ITC) updated 2002 HTSUS. Access "[What's New](#)" on our website.

CIVIL AIRCRAFT

Customs issued a final rule, effective, July 8, 2002, which amends 19 C.F.R. 10.183 concerning the duty-free entry of qualifying civil aircraft, aircraft engines, or ground flight simulators, including their parts, components, and subassemblies to reflect the current text of general Note 6 of the HTSUS as amended by the 1996 Miscellaneous Trade and Technical Corrections Act. 67 Fed. Reg. [39286](#) (June 7, 2002).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/02		
	APPROVED	PENDING
ZONES	246	3
SUBZONES	478	13
MISCELLANEOUS		23
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	11	
SUBZONES	10	