

BRIEFINGS

ROUTING SLIP

C-TPAT PORTAL DEADLINE

The deadline for the mandatory submission of Supply Chain Security Profile data into the C-TPAT Portal has been [extended](#) for all participants to October 1, 2006. Completion of the 29 sections of the security profile requires a significant effort. More importantly, clients should understand that with this electronic database, Customs has the ability for the first time to analyze, cross-reference, confirm, rank, identify shortcomings, prepare reports, etc. Expect to see serious issues arise.

WOOD PACKAGING

The Animal and Plant Health Inspection Service (APHIS) and Customs began Phase III of their wood packaging material (WPM) implementation plan on July 5, 2006, including full enforcement on all articles of regulated WPM in the U.S. All violative WPM may be ordered to be immediately exported at the Port Director's discretion. Customs [Operating Procedures](#) have been updated.

MPF DISCLOSURE

The Court of International Trade (CIT) has held that National Semiconductor Company (NSC) must pay \$10,000 in compensatory interest, instead of the \$1 million Customs penalty interest claim on unpaid MPF, after NSC made two voluntary disclosures regarding Customs entries where there was no loss of revenue. [U.S. v. Nat'l Semiconductor Co.](#), Slip Op. [06-90](#) (June 16, 2006).

FIRM TRAINING SEMINARS

- FTZ/General at NAFTA Convention – Sept. 19
 - FTZ Training – Oct. 24-25
 - Import/Export – Dec. 5-6
- More information is on our [web site](#). Make reservations now as seating is limited.

BIS CHINA "CATCH-ALL"

The BIS has issued its long-anticipated proposed "catch-all" rule for China. It will impose new licensing requirements on exports to China of numerous items for which licenses usually are not required now, whenever the end-use is military or the exporter cannot confirm that the end-use is not military. The end-user certificate requirement will be expanded and a new "Validated End User" provision created. Written comments are due November 3, 2006. 71 Fed. Reg. [38313](#) (July 6, 2006).

BYRD CONSTITUTIONALITY

The Court of International Trade has held part of the "Byrd Amendment" to be unconstitutional as a violation of free speech protections. The Byrd Amendment provides that only companies that support the AD petition receive the benefit of duties collected. The Court held that this provision "compels" speech to obtain a government benefit, and therefore is unconstitutional. This creates a very complex and expensive problem for all parties. Expect an appeal. [PS Chez Sidney, L.L.C. v. USITC](#), Slip Op. [06-103](#) (July 13, 2006).

FTZ RECONSIDERATION

The Foreign-Trade Zones Board (FTZ) has announced the issuance of its [Report](#) in the Perrigo subzone review. A domestic supplier's concerns caused, for the first time, a staff review of a subzone approved in 2004. The FTZ Board staff proposes to limit subzone financial savings because the Application was not complete. Comments are due by August 7, 2006. Contact Scott Taylor for further information. 71 Fed. Reg. [38362](#) (July 6, 2006).

GSP PRODUCT REVIEW

The Office of the United States Trade Representative (USTR) has announced that it will receive petitions to update the products that are qualified for duty-free treatment under the Generalized Standard of Preferences (GSP) program, and to update the GSP status of certain GSP beneficiary developing countries because of country practices through July 20, 2006. Petitions requesting competitive need limitation (CNL) waivers are due by November 17, 2006. 71 Fed. Reg. [37129](#) (June 29, 2006).

SECTION 321 ENTRIES

Clients should carefully monitor their brokers use of low value Section 321 entries, because serious compliance issues can arise. Request periodic reports from your brokers on these transactions. Every effort should be made to not utilize such entries.

AD/CVD EMERGENCY RELIEF

The Commerce Department has issued a proposed rule to establish procedures for importation of emergency relief supplies, such as clothing, food, and medical and surgical supplies, free of any otherwise applicable antidumping and countervailing duties. Comments are due by July 24. 71 Fed. Reg. [35846](#) (June 22, 2006).

ACE ESAR RELEASE

Two members of the Trade Support Network (TSN) have prepared a [pamphlet](#) entitled "Trade Users Guide for ACE-ESAR (Entry Summary, Account, Revenue) Release A2" that focuses on the substantial changes coming in ESAR Release A2, in early 2008 when ACE will become mandatory.

BOYCOTT DISCLOSURES

The Bureau of Industry and Security (BIS) has issued a Proposed Rule to establish BIS policy on voluntary disclosures of violations of U.S. antiboycott regulations and set forth what BIS considers to be mitigating/aggravating factors in penalty determinations. Comments on the Proposed Rule are due by August 29, 2006. 71 Fed. Reg. [37517](#) (June 30, 2006)

ENDANGERED SPECIES

The Fish and Wildlife Service has reopened the comment period for a proposed rule to change regulations that implement the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). Comments are now due by July 28, 2006. 71 Fed. Reg. [36742](#) (June 28, 2006).

HTSUS SUPPLEMENT

The U.S. International Trade Commission has posted [Supplement 1](#) to the HTSUS primarily related to changes in special trade programs (i.e., GSP, FTAs, AGOA). Paper updates are expected to be printed and distributed in the next 2-4 weeks.

FTA – DR-CAFTA

- On June 30, 2006, President Bush issued Proclamation 8034 to amend the HTSUS with respect to DR-CAFTA for Guatemala.
- Customs has announced the implementation of a [certificate](#) of eligibility requirement for certain Nicaraguan apparel effective July 1, 2006.
- Effective July 14, 2006, importer's may claim retroactive duty treatment for imports of certain textile or apparel goods entered on or after January 1, 2004, but before the entry into force of DR-CAFTA in certain instances. 71 Fed. Reg. [40171](#) (July 14, 2006).

FTA'S

- The U.S. and Malaysia have concluded the first round of FTA negotiations, and indicated that talks could be finished by the end of 2006.
- President Bush sent the U.S.-Oman FTA implementing legislation to Congress on June 26, 2006; a vote before the August recess. Similar legislation for the U.S.-Peru FTA is expected in September 2006.

ALIEN EMPLOYMENT

The Bureau of Immigration and Customs Enforcement has issued a proposed rule to amend the regulations on unlawful hiring or employment of unauthorized aliens, adding two additional examples of situations that may lead to a finding that an employer had constructive knowledge of the aliens' status. 71 Fed. Reg. [34281](#) (June 14, 2006).

ICSO

The International Container Security Organization ([ICSO](#)) was formed June 28 in Brussels to develop global open standards for container security technology.

CANADA EXPORT GUIDE

The Canadian Border Services Agency has published "[Exporting Goods from Canada: A Handy Guide for Exporters](#)" with guidance on Canadian export controls and procedures.

PROTEST TIME LIMIT

The Court of International Trade has held that the time limit to file a Protest relates back to a liquidation actually affected by the protested decision or the date on which Customs discloses the decision if it is independent of any liquidation. The Court sustained Customs' rejection of a Protest by Ford of an assessment of unpaid duties on certain Entries, where Ford "allocated" the unpaid duties to a later Entry and then Protested the liquidation of the later Entry. [Ford Motor Co. v. U.S.](#), Slip Op. [06-95](#) (June 21, 2006).

"RED FLAGS"—UNVERIFIED

The Bureau of Industry and Security (BIS) has issued a revised "Unverified List" of persons for whom BIS has been unable to verify authenticity or other information, and reminds the Trade that the involvement of any of these persons in a transaction is a "red flag" requiring an exporter to engage in further due diligence. 71 Fed. Reg. [39297](#) (July 12, 2006).

DRAWBACK

The Court of International Trade (CIT) has clarified the prohibition on substitution unused drawback under NAFTA. The CIT held that drawback is not available where a duty-paid import is substituted for duty-free merchandise that is subsequently exported to a NAFTA country. [Merck & Co. v. United States](#), Slip. Op. [06-86](#) (June 6, 2006).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/06		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	269	255
SUBZONES	582	484
		PENDING
ZONES		1
SUBZONES		17
MISCELLANEOUS		29
		AVERAGE PROCESSING TIME (MONTHS)
ZONES		9
SUBZONES		10