

BRIEFINGS

PHARMACEUTICAL APPENDIX

On July 1, 1999, the [Pharmaceutical Appendix](#) to the U.S. Tariff Schedule was amended to add 642 pharmaceutical products and chemical intermediates. Clients are urged to carefully review the list; numerous questions and errors have occurred. The EU and Canada concurrently adopted the list; for the first time Japan deferred the implementation date. Access the document at "What's New" on our web site.

VIETNAM

President Clinton's Jackson-Vanik Grant treats Vietnam as if it is a normal trade relations (NTR) partner. Congress has until the end of August to disapprove the waiver. Negotiations continue with Vietnam to conclude a bilateral trade agreement that would cover goods and services, intellectual property, and investment issues. [64 Fed. Reg. 31111 \(Jun. 10, 1999\)](#)

RELATED PARTY TRADE

The U.S. Census Bureau released a report entitled "[U.S. Goods Trade: Imports & Exports by Related Parties \(1998\)](#)." In 1998 47% of the total import value and 32% of the total export value was comprised of related party trade. Access the report at "What's New" on our web site.

MPF MEXICAN EXEMPTION

As of June 30, NAFTA-originating goods of Mexican origin were exempt from the MPF. [CEBB T-NAFTA2.TXT \(Jun. 10, 1999\)](#)

FALSE CLAIMS ACT

The False Claims Act ([31 USC 3729](#)) is increasingly being used in Customs fraud cases. It allows whistleblowers to bring suit and share in a percentage of any recovery. Recent cases have involved misclassification and undervaluation of goods. Plaintiffs need only show that the importer acted with "reckless disregard" or "deliberate indifference" to the truth, and, unlike criminal fraud cases, intent need not be proven.

TRADE BILL

President Clinton signed the Miscellaneous Trade and Technical Corrections Act of 1999 ([H.R. 435; Public Law 106-36](#)). Among other things, the law implements temporary duty suspensions, funds an additional 50 inspectors and \$50 million for ACS, allows Reconciliation mid-point processing, initiates a new pilot air cargo inspection fee system, implements a yacht duty deferral structure, and requires that the CF 214 be automated by Jan. 1, 2000.

DRAWBACK

This year, for the first time in memory, drawback claims filed have declined. Complex rules, penalties, NAFTA, decreased exports, etc. are blamed. Estimates of more than \$2 billion of potential drawback refunds go unclaimed by shippers each year. Approximately 80% of the claims are filed by 10% of the eligible firms. Clients are encouraged to focus on never paying Customs duties on exports by using FTZs.

GSP

- The Generalized System of Preferences expired on June 30; a two-year extension is pending in Congress, but is not expected until at least the Fall.
- President Clinton has authorized changes to the GSP which will be retroactive if the GSP is extended. Presidential Proclamation 7206. [64 Fed. Reg. 36229 \(Jul. 2, 1999\)](#)
- Customs has issued procedures to follow like those issued in previous years for deposits and duty refunds after expiration of the GSP. [64 Fed. Reg. 34847 \(Jun. 29, 1999\)](#)

CUSTOMS BROKER EXAM

Customs has posted the [April 1999](#) Customs broker exam and answer key to its web site. There was a reported 16.64% pass rate. Access the exam and answer key at "What's New" on our web site.

WTO TALKS

The Quad Trade Ministers (U.S., Canada, Japan, and E.U.) have set the agenda for the Third Minister Conference in Seattle to be held in November and December with over 150 attendees. The ministers will complete China accession talks before the Conference. They also agreed to conclude the WTO round in three years and to discuss agriculture and industrial tariffs. The House Ways and Means Trade Subcommittee will hold hearings on Aug. 5 on negotiating objectives for the conference. <http://www.wto.org/wto/minist/minrel.htm>

USER FEE AIRPORTS

Customs has raised its fees at User Fee Airports. The initial fee will be \$111,500 and the recurring annual fee will be \$80,000, effective Oct. 1, 1999. The fees are based on costs incurred by Customs for purchasing equipment and for providing training and a Customs inspector. [64 Fed. Reg. 36969 \(Jul. 8, 1999\)](#)

CUSTOMS BROKERS

- Customs issued a Federal Register Notice extending the comment period to July 28, 1999 on their proposed Regulations, governing the licensing and conduct of Customs Brokers. [64 Fed. Reg. 34748 \(Jun. 29, 1999\)](#)
- Customs published a notice of a proposal to allow Customs Brokers, under certain circumstances, to lease employees from leasing companies, (ELCs) for the performance of Customs business. The proposed Ruling does not affect the prohibition on using temporary workers. Written comments are due by July 23, 1999. 33 Cust. B. & Dec. 25 (Jul. 23, 1999)

FORCED CHILD LABOR

President Clinton issued Executive Order (EO) 13126, which prohibits federal government procurement of products produced by forced or indentured child labor. EO 13126 requires within 120 days of June 12, 1999, that the Federal Acquisition Regulatory Council issue proposed rules requiring each solicitation by a federal government agency of offers for a contract for the procurement of a product include contractor certification and access to records clauses, and that the Labor Department publish in the Federal Register a list of products (by country of origin) which the Departments of Labor, State, and Treasury have a reasonable basis to believe might have been mixed, produced, or manufactured by forced or indentured child labor. [64 Fed. Reg. 32383 \(Jun. 16, 1999\)](#)

RECONCILIATION

- Further details of the ACS Prototype have recently been published. Detailed tips on providing test data has been provided. Bond coverage issues arise when sureties are changed. The type "09" entry must be received at Reconciliation Processing Ports. The field, definition and format of the spreadsheet cells that must be in ASCII format after July 15 have been published with explanations. CEBB [T-RECON8.TXT](#) (Jun. 2, 1999); CEBB [T-RECN10.TXT](#) (Jun. 18, 1999); CEBB [T-RECN11.TXT](#) (Jul. 8, 1999); CEBB [T-RECN12.TXT](#) (Jul 9, 1999).
- The Trade Bill approved the use of the midpoint interest calculation on aggregate reconciliations.

HTSUS

- USTR modified the Harmonized Tariff Schedule of the United States to correct errors resulting from various proclamations, make conforming changes that were inadvertently omitted from prior actions, correct typographical errors, and make technical rectifications to ensure the intended tariff treatment is granted to products. [64 Fed. Reg. 32915 \(Jun. 18, 1999\)](#)
- The on-line version may be accessed at <http://www.usitc.gov/taffairs.htm>. Hard copies are not expected to be mailed until late July/early August.

APHIS

Because of a pest risk from new wood material from Mexico, the Animal and Plant Health Inspection Service (APHIS) issued a notice advising the public that it intends to prepare an environmental impact statement and further regulations. Possible alternatives being considered are: no regulatory action, apply China/Hong Kong requirements to other countries, country specific restrictions, ban on certain types/all SWPM. Written comment is due by September 7, 1999. [64 Fed. Reg. 36608 \(Jul. 7, 1999\)](#)

CUSTOMS DISCREPANCIES

Customs has posted to its web site a report entitled "Stratifying Major Discrepancies" to inform the trade community of how Customs categorizes various discrepancies found by Customs officials during cargo examination, entry processing and entry summary review, and to explain how Customs compiles this data for use in Compliance Measurement. <http://www.customs.ustras.gov/imp-exp2/pubform/tcmr/1998/index.htm>

REMOTE FILING

Customs issued a Federal Register notice in April proposing regulations for remote filing. The comment period was recently extended until July 28, 1999. Final action will definitely change broker roles nationwide. [64 Fed. Reg. 22725, \(Apr. 27, 1999\)](#); [64 Fed. Reg. 34748 \(Jun. 29, 1999\)](#)

EU-MERCOSUR

Trade talks between the two blocs have begun in a mode that differs from expectations and portends future developments. The heads of state in Cologne, Germany on June 4, signed a declaration to begin working toward the "liberalization of trade" versus a "free trade area" as the South American countries preferred; France objected to the use of the term "free trade area." By not pursuing a free trade area, all countries would have equal access to tariff reductions. The EU and Mercosur will first focus on non-tariff barriers such as rules of origin, antidumping and countervailing measures, and competition policy.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/99		
	APPROVED	PENDING
ZONES	229	7
SUBZONES	400	34
MISCELLANEOUS		28
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	12	
SUBZONES	11	