

BRIEFINGS

ROUTING SLIP

TRADE SECURITY

- There are now more than 7,000 C-TPAT members, encompassing 45% of U.S. imports. 78% of the members have been validated; 100% are to be validated by the end of 2007.
- The Department of Homeland Security (DHS) has published its [plan](#) on how the U.S. will resume trade and commerce after an attack on a major U.S. port.
- The U.S. and New Zealand have signed a [Mutual Recognition Agreement](#) between the U.S. C-TPAT program and New Zealand's "Secure Exports Scheme."
- Customs expects to approve 11 of the 24 [applicants](#) to conduct C-TPAT validations in China.
- The Port of Chicago has issued a [Pipeline](#) with instructions for how C-TPAT participants may remove other containers from Customs custody when a single container has been selected for exam.
- Customs has issued new [minimum security criteria](#) for both marine port authority and Mexican long-haul highway carrier participants in C-TPAT. All current participants must upgrade by 120 days from August 6, 2007.

10+2 IMMINENT

As a reminder, Customs is still expected to issue its Proposed Rule on the "10+2" advance data elements in the next few weeks. Because of the potential substantial impact, clients should be prepared to vigorously review and comment on the Proposed Rule.

2007 SEMINAR SCHEDULE

- By client demand, we have scheduled three more Advanced Seminars in 2007. The Advanced Seminars are:
 - Sept. 18-19 - Exports (waiting list only)
 - Oct. 23-24 - Classification
 - Nov. 13-14 - Value
- Client-only free seminars are scheduled for:
 - Oct. 1 - Customs/Trade/FTZ Developments at the NAFTA Convention in Phoenix.
 - Nov. 28-29: Import/Export 101
- More information is available on our web site. All seminars are on a first-come, first-served basis. Register now by e-mail to Kelly Galate at kgalate@millerco.com.

IMPORTED FOOD SECURITY

- President Bush has issued an Executive Order establishing an interagency work group to identify actions and steps, using existing resources, to promote the safety of imported products. 72 Fed. Reg. [40053](#) (July 20, 2007).
- A Senate bill called the "Imported Food Security Act of 2007" would require foreign food suppliers to be FDA certified and impose a per line item fee on imported food products to fund improved food inspections and food testing research. [S. 1776](#).

ALIEN EMPLOYEES

U.S. Immigration and Customs Enforcement (ICE) has issued a Final Rule on unlawful hiring or continued employment of unauthorized aliens. 72 Fed. Reg. [45611](#) (Aug. 15, 2007).

TEXTILE FTZ APPLICATIONS

The Foreign Trade Zones Board has published three Requests for Manufacturing Authority that seek approval to manufacture upholstered furniture and related parts in Foreign Trade Zones (FTZs). The applicants state that the duty savings is only on fabric not produced in the United States. This would be the first time that the Foreign-Trade Zones Board has permitted inverted duty savings for textile products, so expect public opposition. 72 Fed. Reg. [43232-33](#) (Aug. 3, 2007).

100% CONTAINER SCANNING

President Bush has signed the "[Implementing the Recommendations of the 9/11 Commission Act of 2007](#)," which requires 100% scanning of all U.S.-bound containers by July 1, 2012. The trade industry and foreign governments have expressed concern over high infrastructure and administrative costs, and potential disruption in the global supply chain.

RELATED PARTY VALUES

The *New York Times* has published an [article](#) on tax breaks for multinationals that, combined with the recent Customs Informed Compliance [Publication](#) on related party valuation, highlight increased interest on transfer pricing by Customs. Clients need to ensure that their related-party values are tested against Customs standards. Please contact Sean Murray or Tom Lobred with questions.

FALSE EXPORT VALUES

The Bureau of Industry and Security (BIS) has [fined](#) P.R.A. World Wide Trading Co., Inc. \$250,000 for falsifying export values reported on Shipper's Export Declarations (SEDs). Significantly, the penalties were assessed under BIS regulations, and not under the Census Foreign Trade Statistics Regulations (FTSR), which provide for SEDs.

"PATRIOT SOURCING"

A newly proposed "[Patriot Corporations of America Act](#)" would provide a 5% tax reduction and preferential treatment on government contracts for U.S. companies that U.S. source their goods and services. Qualification as a "patriot corporation" would require a company to maintain or increase the number of U.S. workers relative to non-U.S. workers, be headquartered in the U.S., and pay workers at least \$7.80/hour. The bill would also withdraw certain benefits from companies that move production out of the U.S. [H.R. 5699](#).

ANTIBOYCOTT GUIDELINES

The Bureau of Industry and Security has issued a Final Rule setting forth guidelines on antiboycott voluntary self-disclosures. 72 Fed. Reg. [38999](#) (July 17, 2007).

BROKER EXAM

Customs has [announced](#) that the next Customs broker license exam will be held October 1, 2007. The application and exam fee are due August 31, 2007.

FDA REGISTERED FACILITIES

The Food and Drug Administration has updated its [list](#) of registered food facilities under the Public Health Security and Bioterrorism Preparedness and Response Act of 2002.

CHINA IMPORTS

According to the U.S. Consumer Product Safety Commission (CPSC), 60% of goods [recalled](#) this year have come from China.

RELATED PARTY PAYMENTS

In an interesting case involving related-party payments, Customs has requested Summary Judgment against AutoAlliance International, Inc. (AAI), a Ford/Mazda joint venture that challenged Customs' addition of design and development costs incurred by Mazda Japan to the value of auto parts imported by AAI. Customs alleges that Mazda North America (MNA) reimbursed Mazda Japan for some of the costs, and is AAI's customer for cars manufactured from the imported parts. AAI claims that it is the "buyer" of the parts, not MNA, so the payments made by MNA are not part of the customs value. [AutoAlliance Int'l Inc. v. U.S.](#), CIT Court No. 05-00596.

GLOBAL TRADE EXCHANGE

In a [letter](#) to the Secretary of Homeland Security, the Joint Industry Group has expressed concerns about the "Global Trade Exchange." As reported last month in *Briefings*, the fear is that foreign governments could obtain and share information from this third-party managed data warehouse with competitors of U.S. companies or other outside parties.

HTSUS "USE PROVISIONS"

In [BASF Corp. v. U.S.](#), the Court of Appeals for the Federal Circuit ruled that an incomplete fuel additive was classifiable as a fuel additive. In classifying the additive in a use provision, the Court reminded that use provisions are generally more specific than *eo nomine* provisions and more difficult to satisfy. CAFC Slip Op. [06-1387](#) (Aug. 10, 2007).

ENCRYPTION TECH AND FDP

The Bureau of Industry and Security has issued an [Advisory Opinion](#) relating to exports of encryption-related technical assistance and data, and the resulting foreign direct product (FDP) of that technology, stating when licenses or other approvals are required for the export of the technology and FDP.

VOLUNTARY RELIQUIDATION

Customs has issued a Final Rule on voluntary reliquidation, giving Customs the authority to reliquidate entries within 90 days of the date of the deemed liquidation or notice of original liquidation. Examples of entries that may be deemed liquidated by operation of law are antidumping (AD), countervailing duty (CVD), and drawback entries. 72 Fed. Reg. [40737](#) (July 25, 2007).

CONTINUOUS BONDS

The Customs Revenue Division has posted revised [policies](#) and procedures for Activity Code 1 continuous bonds. Effective immediately, the Revenue Division will reject any continuous bond showing a printed liability limit less than the liability amount of the bond or greater than the specific agent and surety limits recorded with Customs. The Revenue Division proposes, at some point in the future, to reject bond forms containing any printed liability limits.

NEW APHIS IMPORT RULES

Effective August 17, 2007, the Animal and Plant Health Inspection Service (APHIS) will begin processing fruit and vegetable imports based on a new risk-based approach. Fruit and vegetable imports meeting specific criteria will receive expedited clearance. A searchable website listing the import requirements for eligible fruits and vegetables is expected to be available this winter. 72 Fed. Reg. [39482](#) (July 18, 2007).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/07

	APPROVED	CURRENTLY AUTHORIZED
ZONES	271	257
SUBZONES	598	498
PENDING		
ZONES	1	
SUBZONES	15	
MISCELLANEOUS	34	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	