

BRIEFINGS

RESEARCH DRUGS

The Customs Service has published a request for comments on the classification of clinical research pharmaceuticals that has a very significant duty impact on pharmaceutical imports. In several cases, Customs has reclassified clinical research (i.e., non-NDA approved) pharmaceuticals from duty free provisions in Headings 3003 and 3004 to dutiable provisions in Heading 3824. Due to the duty impact, we strongly encourage all pharmaceutical clients to file comments opposing any change in practice by the September 3 deadline. www.cebb.customs.treas.gov/public/cgi/cebb.exe?mode=fi&area=6&name=H962921S.TXT. Access the document at "What's New" on our web site.

OIL ANTIDUMPING

The Commerce Department has rejected a Petition filed by U.S. independent producers alleging that Saudi Arabia, Mexico, Venezuela, and Iraq have been dumping oil in U.S. markets. Commerce rejected the petition not on its merits, but on the grounds that it did not have the requisite support of the U.S. industry as required by 19 USC 1673a. An Appeal is likely; the FTZ "Oil" or "Petroleum" Grant renewal *Federal Register* notice is expected soon. USITC Investigation Nos. 701-TA-397-400/731-TA-842-845.

1592 VIOLATIONS

Recoton Corporation has agreed to pay \$14 million in penalties and duties to settle claims that it violated 19 USC 1592 by: mislabeling certain merchandise as "Made in U.S.A.", falsely claiming certain merchandise made in Costa Rica in order to qualify for duty-free eligibility under CBI, and understating the value of certain imports. Expect more such actions. <http://www.customs.us/reas.gov/hot-new/pressrel/1999/0727-01.htm>. Access at "What's New" on our web site.

FTZ WEEKLY ENTRY

On July 16, Sen. William Roth (R-DE) introduced a bill ([S. 1388](#)) that would extend FTZ Weekly Entry procedures to non-manufacturing foreign-trade zone operations. The bill language treats the weekly entry as a single entry and single release of merchandise for Merchandise Processing Fee purposes and states that no implementing Customs Regulations are necessary. It was scored as a modest revenue loss. Access the documents at "What's New" on our web site.

AES

Final Rules amend the Foreign-Trade Statistic Regulations (FTSR) to provide for the Automated Export System (AES). [64 Fed. Reg. 40974](#), [64 Fed. Reg. 40984](#) (Jul. 28, 1999).

FDA LIQUIDATED DAMAGES

The U. S. Customs Service has issued a Notice of Proposed Rulemaking to provide for the assessment of liquidated damages equal to the domestic value of the merchandise that is not admissible under the provisions of the Food, Drug and Cosmetic Act and that is not treated or disposed of in accordance with that Act. The Proposed Rulemaking also provides for liquidated damages of three times the appraised value of the merchandise in the case of merchandise that is restricted or prohibited from entry. Comments are due by October 1, 1999. [64 Fed. Reg. 41851 \(August 2, 1999\)](#). Access the notice at "What's New" on our web site.

FCS - WTO DECISION

The World Trade Organization has decided that the United States tax code provision for Foreign Sales Corporations violates world-trade rules prohibiting export subsidies. The final panel ruling will be published soon.

RECONCILIATION

Downward adjustments on Aggregate Reconciliations are allowed as of July 21, 1999. A midpoint interest calculation method may be used for Aggregate Reconciliation as of July 25, 1999. [64 Fed. Reg. 39187 \(Jul. 21, 1999\)](#).

“EXPORTER” RULES

The BXA and the Census Bureau have issued revised draft regulations that define the responsibilities of parties to export transactions. The revised draft regulations do not appear to totally solve the previous problems. BXA - <http://www.bxa.doc.gov/Regulations/Cioleap3.html>; Census - <http://www.census.gov/foreign-trade/regulations/drafts/ftdear-07141999.pdf>. Access the documents at “What’s New” on our web site.

NAFTA ORIGIN RULES

The International Trade Commission has proposed modifications to the NAFTA preferential rules of origin. Most of the proposed modifications are made necessary by changes in U.S., Mexican, and Canadian tariff schedules, and would not affect the U.S. NAFTA marking rules of origin. Comments are due August 31. [64 Fed. Reg. 42961 \(Aug. 6, 1999\)](#). Access the *Federal Register* notice at “What’s New” on our web site.

MERCHANDISE DETENTION

Customs has issued a final rule effective September 10, 1999. Customs can detain merchandise for 5 working days to determine if it should be detained or released. If the merchandise is detained, Customs must issue a notice within the next 5 working days. A final determination will be made within 30 days from the date the merchandise was presented to Customs. Detained merchandise may be seized or forfeited and is subject to protest. [64 Fed. Reg. 43608 \(Aug. 11, 1999\)](#).

CUSTOMS BROKER EXAM

A [Customs Broker Exam](#) will be held at various ports on October 4, 1999. Applications in duplicate and the \$200 fee must be received by September 3, 1999. Examples of exams are available at “What’s New” on our web site.

WTO DIRECTOR-GENERAL

A compromise has been reached that ends the leadership dispute. Mike Moore, a former New Zealand Prime Minister, will become WTO Director-General for three years and then be succeeded by Supachai Panitchpakdi, a Thai deputy premier, who will also serve a three year term.

ITP.1/ITP.2

The International Trade Prototype is a series of Customs prototypes being conducted with U.K. Customs in an effort to streamline global trade. ITP.1 has been in effect since June 3, 1998. ITP.2 has been in effect since June 30, 1999, and is an operational test of an account-based declaration process that integrates preliminary export and import reporting for air and sea cargo shipments entered or exported from select cities in the U.S. Applications to participate must be submitted by August 27, 1999. Public comment is invited. [64 Fed. Reg. 40643 \(Jul. 27, 1999\)](#).

CUSTOMS BONDS

Customs is seeking comments on its proposed changes to the basic import and entry bond conditions. Currently, when merchandise is conditionally released, the principal agrees to furnish Customs with the required Customs documents. The proposed changes would extend this to include the documents of other government agencies. Comments are due October 5, 1999. [64 Fed. Reg. 42872 \(Aug. 6, 1999\)](#).

LIQUIDATION NOTICES

Customs issued an ABI message stating a proposed change to the courtesy notice of liquidation. Record N2 will include the amount of interest that will be refunded by, or is due to, Customs. ADM 99-0560 (Jul. 23, 1999).

GRAY MARKET IMPORTS

The International Trade Commission imposed a \$2.3 million fine against a “gray market” importer of Japanese tractors. The Japanese tractors were marketed to American distributors through a network of authorized dealers. The company that was fined, Gamut Trading Co., was buying used Kubota Corp. tractors manufactured in Japan and intended for the Japanese market and selling them in the U.S. at a lower price than Kubota. USITC Investigation No. 337-TA-380, July 28, 1999. <http://www.usitc.gov/sec/I0729W1.HTM>. Access the ITC notice at “What’s New” on our web site.

COURT DECISIONS

- On July 28 the CAFC ruled that Customs Rulings are not entitled to the same deference as Customs Regulations because they are not subject to extensive public comment and review before their enactment. *Mead Corporation v. U.S.*, [CAFC Slip Op. 98-1569 \(Jul. 28, 1999\)](#).
- The CAFC upheld the 90-day limit for filing protests even though the duties were collected by Customs in error. *U.S. v. JVC Corp. V. United States*, [CAFC Slip Op. 98-1592 \(Jul. 21, 1999\)](#).
- The CAFC held that if a reasonable competitor will accept a good for its primary commercial purpose, then the good is commercially interchangeable and qualifies for drawback. *Texport Oil Co. V. U.S.*, [CAFC Slip Op. 98-1352, -1353, -1373 \(Jul. 27, 1999\)](#).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/99		
	APPROVED	PENDING
ZONES	229	8
SUBZONES	411	34
MISCELLANEOUS		27
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	13	
SUBZONES	12	