

ATTORNEYS AT LAW

BRIEFINGS

ROUTING SLIP

GLOBAL C-TPAT - AEO

The World Customs Organization (WCO) has published [guidelines](#) for participation in its Authorized Economic Operator (AEO) program, including security standards set forth in the WCO "SAFE Framework," and examples of potential benefits to participants. The guidelines are available to all stages of the supply chain.

FDA REGISTRATION/LISTING

The Food and Drug Administration (FDA) has issued a major proposed rule on registration and listing of entities and substances, including the proposed revocation of two key exemptions applying to imports of unapproved articles (including drug components) for reexport or further processing and foreign establishments operating in Foreign Trade Zones. Written comments are due by November 27, 2006. 77 Fed. Reg. [51276](#) (Aug. 29, 2006).

GSP RENEWAL

The Generalized System of Preferences (GSP) program expires at the end of this year. The Office of the U.S. Trade Representative has indicated that 13 countries – Russia, Argentina, Brazil, Croatia, India, Indonesia, Kazakhstan, the Philippines, Romania, South Africa, Thailand, Turkey, and Venezuela, could be dropped from the program under proposed changes that would concentrate the program more on less developed countries.

FIRM TRAINING SEMINARS

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

NEW CBP OFFICE OF TRADE

September 13th Customs and Border Protection (CBP) announced the creation of the newly formed Office of Trade. The Office of Trade will consolidate the Office of Strategic Trade, the Office of Regulations and Rulings, and the Office of Field Operations. Dan Baldwin (formerly the director of the Office of Strategic Trade) will be in charge as a new Assistant Commissioner. Vera Adams, the Executive Director of Trade Enforcement and Facilitation will replace Mr. Baldwin at the Office of Strategic Trade. Todd Owen, currently the Executive Director, Cargo Security and Conveyance (C-TPAT) will replace Ms. Adams at Trade Enforcement and Facilitation. The new Office of Trade will combine the trade policy, program development, and compliance measurement functions of CBP into one office. It will also develop national trade policies and programs that CBP officers will follow in ports of entry. Day-to-day Customs operations will remain the responsibility of the Directors of Field Operations, Port Directors, and front line supervisors.

FORD

The Court of Appeals for the Federal Circuit (CAFC) has upheld the earlier Court of International Trade decisions finding Ford guilty of negligence and gross negligence. Several very interesting findings were made by the CAFC:

- 19 USC 1485 requires importers to report value adjustments "at once."
- Ford's certification on the Customs entry that the values were "true and correct" was false where it knew of pre-entry change orders at the time of entry, and a violation of 19 USC 1484.
- The CAFC re-affirmed an earlier decision that an importer could not be penalized under 19 USC 1484 for failure to disclose post-entry price changes because of Fifth Amendment Due Process protections.
- Failure to timely respond to CF28s may be a violation of 19 USC 1485.
- These decisions raise some serious questions about the timing requirements for value adjustments. Contact Tom Lobred or Sean Murray with questions. CAFC Slip Ops [05-1584](#) and [05-1593](#) (Aug. 30, 2006).

ACE

An ACE EXCHANGE [conference](#) will be held on October 30 - November 2, 2006, at the Westin LaPaloma in Tucson, Arizona. Details of the meeting are on the Customs web site and clients are encouraged to attend.

The material contained herein is not to be construed as legal advice or opinion. More information may be obtained by contacting any attorney within the firm.

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NAFTA

- Customs has issued a new directive (C.D. 3810-008b) regarding NAFTA verification visits.
- Comments are due October 23, 2006 on proposed amendments to the Customs Regulations clarifying that an importer must declare it is exempt from Merchandise Processing Fee payment for goods that meet a NAFTA rule of origin, even when the goods are unconditionally free. 71 Fed. Reg. [49391](#) (Aug. 23, 2006).
- The U.S. International Trade Commission (ITC) has released an investigation [report](#) on modifications to the NAFTA rules of origin of fish oils, food preparations, oil and petroleum products, turbines, valves, electric motors, generators, batteries, alarms, and others.
- USTR has published a notice accelerating tariff reductions and changing rules of origin for photocopiers and infant formula under the Singapore FTA. 71 Fed. Reg. [46250](#) (Aug. 11, 2006).
- Clients are reminded that changes in NAFTA/FTA Rules of Origin and acceleration of duty reductions are possible. Contact Sean Murray to discuss developing a submission to change the Rules.

DUTY SUSPENSIONS

A series of duty suspension provisions was included in the Conference Report on Pension Reform, passed by the Senate on August 3, 2006 and signed into law on August 17, 2006. The articles on the detailed [list](#) remain effective until December 31, 2009.

LIBYA SANCTIONS/EAR

The Bureau of Industry and Security has rescinded Libya's designation as a terrorist-supporting country under the Export Administration Regulations (EAR) to implement the President's determination that Libya no longer provides support for international terrorism. 71 Fed. Reg. [51714](#) (Aug. 31, 2006).

C-TPAT

- The deadline is October 1 for all existing C-TPAT participants to submit detailed information in the [Portal](#).
- Customs minimum [security criteria](#) for foreign manufacturers went into effect on August 29. New manufacturers wishing to join C-TPAT must meet the minimum criteria before they will be considered C-TPAT certified. The requirements will be phased in for existing C-TPAT members. Foreign manufacturers may join C-TPAT by invitation only.
- A senior Customs official has indicated that container seals will likely not be part of the government's front-line trade-security measures, contradicting earlier indications. Customs will likely focus instead on developing technology that creates an image of the container's interior and scans for radiation.
- [Phase 3](#) of Customs minimum security criteria for highway carriers, including requiring compliance with Business Partner Requirements, took effect on September 12.

AD/CVD CASH DEPOSIT

Customs has issued a [memorandum](#) stating that retroactive to April 1, 2006 pursuant to Title XIV of the Pension Protection Act, HR 4, cash deposits are now required in lieu of bonds for imported goods subject to Anti-dumping/Countervailing Duties (AD/CVD) by new shippers.

ANDEAN TRADE ACT

U.S. Customs and Border Protection has implemented the trade benefit provisions of the Andean Trade Promotion and Drug Eradication Act (ATPDEA). 40 [Cust. B. & Dec.](#) 35 (Aug. 23, 2006).

INFORMED COMPLIANCE

Customs has [issued](#) a new Informed Compliance Publication (ICP) on cooking ranges, stoves, and ovens, and [revised](#) the ICP on the classification of textile costumes.

CAFTA-DR

Effective September 28, 2006 Customs will allow reconciliations to be used to make post-importation claims arising under the CAFTA-DR. Use of reconciliation precludes a CAFTA-DR claim by other means. 71 Fed. Reg. [37596](#) (June 30, 2006).

WASSENAAR REVISIONS

The Bureau Industry and Security has revised the Export Administration Regulations (EAR) to implement numerous classification changes agreed to in the Wassenaar Arrangement—particularly in the area of antiterrorism controls—and to add Croatia, Estonia, Latvia, Lithuania, Malta, and South Africa to the list of Wassenaar Arrangement Participating States that have agreed to enforce the Wassenaar controls on conventional weapons and dual-use goods and technology. 71 Fed. Reg. [52956](#) (Sept. 7, 2006)

2006 HTS CHANGES

The ITC has posted on its website a September 1, 2006 version of the HTSUS (Supplement 1, Revision 2) that reflects the new temporary Chapter 99 duty suspension/reduction provisions and the extension of certain existing temporary Chapter 99 duty suspension/reduction provisions. Certain CAFTA-DR provisions for various textiles and apparel were also modified.

FTA - TPP

U.S. Customs has [posted](#) an updated summary of trade agreements and trade preference programs.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 9/15/06		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	270	256
SUBZONES	586	486
PENDING		
ZONES	1	
SUBZONES	15	
MISCELLANEOUS	27	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	