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MEMORANDUM

To: Miller & Company P.C. Clients

FROM: Miller & Company P.C.

SUBJECT: Free Trade Agreement/Trade Preference Program Package

DATE: January 2008

We have prepared a comprehensive Free Trade Agreement/Trade Preference Program package that provides basic resource and guidance documents for all existing Free Trade Agreements and Trade Preference Programs. A significant amount of time has been invested to organize a package that contains in one CD-ROM all of the documents related to each FTA/TPP, including: statutes; regulations; *Federal Register* notices; Customs notices; Presidential Proclamations; implementing legislation; and miscellaneous publications.

While there are a variety of sources for individual documents related to Free Trade Agreements and Trade Preference Programs, we have been unable to identify any central resource that has compiled the necessary guidance documents for both importing and exporting under all of these programs.

The United States has implemented bilateral and multilateral Free Trade Agreements (FTAs) with fourteen (14) countries to date. Other FTAs, such as with certain countries in the Dominican Republic - Central American FTA, are close to becoming effective. Currently, eight (8) similar agreements are in negotiation and the U.S. government is actively engaged in attempting to negotiate many more FTAs. The U.S. government has also established Trade Preference Programs (TPPs) that provide trade benefits to certain designated countries. Each of these FTAs and TPPs has its own, unique rules and requirements. This creates a very complex compliance problem for import/export managers. The duty savings opportunities created by these FTAs/TPPs – particularly the very substantial foreign country duty savings created by the FTAs – can warrant substantial company effort, and even open new markets for companies.

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In addition to the resource documents, our FTA/TPP package contains the following new and uniquely created guidance documents:

1. **Free Trade Agreement Utilization Process Summary Memo/Trade Preference Program Utilization Process Summary Memo.** Included in the full set of detailed documents are Utilization Process Summary memoranda that provide an overview of key issues that arise when companies are importing and exporting merchandise that potentially qualifies for FTA/TPP treatment. This summary includes a general discussion of the origin determination process and the certification process for FTA/TPP qualifying merchandise.
2. **Certificate of Origin Supplier Affirmations of Origin.** FTA/TPP Certificates of Origin have created numerous questions for companies. We have included the official Certificate of Origin documents created by governments for the North American Free Trade Agreement (NAFTA), the U.S.-Chile FTA, and the U.S.-Israel FTA. In NAFTA, the U.S.-Chile FTA, and the U.S.-Israel FTA, the burden of proof of origin was structured so the responsibility is with the producer/exporter. The trend in recent FTAs is to require origin information to be provided by a supplier to an importer. Thus, the burden of proof on whether merchandise qualifies for FTA benefits has been shifted to the importing company.

We have prepared a general Certificate of Origin form for all other FTAs/TPPs that do not have an official Certificate of Origin. We believe a form is most important and useful in securing supplier direct engagement and being certain that necessary Customs compliance information is readily available. Additionally, we have prepared Supplier Affirmation of Origin documents for FTAs and TPPs that require the supplier to affirm, with its signature, that it will provide necessary documents to an importing company when requested to do so. While these documents are not legally required, they do provide a framework for compliance that we believe is necessary.

3. **Suggested Purchase Order/Contract Language.** As another layer of protection, we have drafted suggested language to include in Purchase Orders/Contracts to reinforce this request for information for FTAs and TPPs. The language is generally applicable to all FTAs/TPPs, however, it should be customized for FTAs/TPPs to make it consistent with other company requirements and language included in other company documentation.

For your review and consideration, enclosed is a Free Trade Agreement Master Table of Contents that provides a list of all guidance documents and a detailed listing of all resource documents included within the FTA/TPP CD-ROM package. On the CD-ROM, the documents are all linked to the Table of Contents for prompt access.

The extent of documentation included in the CD-ROM makes it impractical to provide a hard copy because it is the equivalent of approximately twenty (20) three-ring binders. The CD-ROM format allows us to provide this package and annual updates at the lowest cost possible for our clients. We are pleased to provide this CD package for a charge of \$2000 for the original CD-ROM and \$50 for each additional CD-ROM copy. As circumstances change and more FTAs/TPPs are entered into, updates will be made available on a fee basis. If you have any questions, please do not hesitate to contact us.

We know of no other package that has been prepared by a law firm, consulting firm, or any other organization that includes and comprehensively organizes all of this information. We believe that this package will provide an excellent FTA/TPP management tool. The material contained herein should not, however, be considered as legal advice or opinion on specific FTA/TPP qualification issues. Information on the specific application of this package and the tailoring of documentation and procedures to particular corporate and business requirements may be obtained by contacting any attorney within the firm.

We trust you will find this package useful in implementing a comprehensive and effective Free Trade Agreement/Trade Preference Program management process. Copies may be secured by completing the attached invoice and returning it to Ms. Joyce L. Powers, Miller and Company P.C., 4929 Main Street, Kansas City, Missouri, 64112 with payment in full.

enclosure

LDM/RESU/142556

FTA/TPP PACKAGE
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