

BRIEFINGS

ROUTING SLIP

NAFTA RULES OF ORIGIN

Customs has posted a [memorandum](#) regarding NAFTA Rules of Origin modified by Presidential Proclamation 8405, for goods entered or withdrawn from warehouses for consumption on or after October 2, 2009. The memorandum includes a list of goods and corresponding HTS classifications that benefit from the changes, including petroleum products in Chapter 27 which can now maintain NAFTA origin when blended with non-originating material, subject to certain limitations. 74 Fed. Reg. [45529](#) (Sept. 2, 2009).

10+2 FAQ UPDATE

Customs has updated its 10+2 [FAQs](#) web page to address many of the trade community concerns relating to bills of lading numbers, bonds, coded transactions, ISF data elements, and exemptions. Clients are encouraged to review this document because of the many detail-level issues with ISF implementation.

MISCELLANEOUS TARIFF BILL

The Senate Finance Committee has requested that new temporary duty suspension [bills](#) be filed by October 30, 2009. New transparency measures have been implemented. Following introduction, the bills will be posted online with required forms from the Senators such as a Bill Description form and Limited Tariff Benefit Disclosure Statement. Contact Scott Taylor or Sean Murray with questions.

Remaining 2009 Seminar

- FTZ 101 is a client-only, free seminar scheduled for December 8-9, 2009. E-mail Penny Freeman at pfreeman@millerco.com to register.
- We are currently planning our 2010 seminar schedule. Dates will be announced in future Briefings and posted on our website.

AES & EAR

Effective October 1, 2009, the BIS is [tightening](#) the edits on the Electronic Export Information (EEI) to improve statistics and ensure that Automated Export System (AES) filers are correctly certifying the use of a license, a license exemption authorization, or a No License Required designation. This could result in many more Census warnings, reinforcing the need for improved AES processes and accuracy. Contact Jerry Greenwell with questions.

DRAWBACK CHANGES

Customs has proposed two changes to the current duty drawback regime: (1) preclusion of drawback for certain excise taxes, and (2) adding a basic import and entry bond requirement for drawback. Drawback claims would not be allowed on substitution drawback entries where an exported good was subject to IRS excise taxes but the imported good was not. Comments are due by Nov. 16, 2009. 74 Fed. Reg. [52928](#) (Oct. 15, 2009).

FDA UPDATES "AofC" CODES

The Food & Drug Administration (FDA) has issued [CSMS #09-000315](#) which adds to and revises the Affirmation of Compliance (AofC) codes for medical devices and radiation emitting product. These codes are necessary for expediting the import release process. Importers should make sure filers are aware of the company's most current codes.

AES PROPOSED RULE

A proposed [rule](#) which would revise the Census Foreign Trade Regulations (FTR) is expected to be issued in Spring or early Summer 2010. Post-departure filing (under moratorium to new participants since August 2003) is expected to be re-opened to new applicants. Approved post-departure filers will have to reapply under the new requirements. The proposed rule will be issued with a comment period followed by a final rule with a delayed (possibly 90 day) compliance period. Contact Jerry Greenwell with questions.

FTZ BOARD

The public comment period for two silicon subzone applications has been extended to October 21, 2009. Opposition to the admission of materials subject to antidumping/countervailing duties into the proposed subzones has led to several comments and public hearings as detailed in last month's Briefings. 74 Fed. Reg. [51128](#) (Oct. 5, 2009).

FCPA PENALTIES

- The U.S. Securities and Exchange Commission (SEC) has [announced](#) that Nature's Sunshine Products Inc. will pay \$600,000 in civil penalties, along with two of its principals paying \$25,000 each, to settle allegations that its Brazilian subsidiary made illegal cash payments to Brazilian Customs officials in violation of the Foreign Corrupt Practices Act (FCPA). SEC Case No. [2:09CV0672](#) (July 31, 2009).
- In addition, the SEC has announced plans to [create](#) a specialized FCPA unit that will focus on new and proactive approaches to identifying violations, work more closely with foreign counterparts, and take a more global approach to violations.

BIS DUAL USE REVIEW

Secretary of Commerce Gary Locke has [announced](#) that the Obama Administration is considering several reforms to the export control system to revitalize U.S. exports, including the elimination of dual-use export license requirements for approximately 40 - 60 countries that are close partners and allies of the U.S. The BIS is also considering the development of a Fast Track program to more quickly approve export licenses to non-threatening countries and revamp the scope of products subject to dual-use licenses.

DDTC NEWS

- The Directorate of Defense Trade controls has issued a [notice](#) that, effective immediately, DSP license amendments for value or quantity changes must be made through a request for a replacement license. Only administrative changes that do not impact AES filings can still be amended.
- The DDTC has also [announced](#) that it will accept DSP-119 forms to amend DSP-85 licenses only, and the rest of amendments (DSP-5, 61, and 73) must occur on the new [D-Trade2](#) electronic amendment forms.

HTSUS UPDATES

The U.S. International Trade Commission has posted "[Supplement 1 Revision 1](#)" of the Harmonized Tariff Schedule of the United States (HTSUS) on its web site. This complete version of the HTSUS includes the recent cancellation of EU beef hormone tariffs, increased duty rates on certain Chinese tires, updates to the NAFTA rules of origin based on 2007 HTSUS modifications and the extension of the 2004 U.S.-Israel agricultural agreement to Dec 31, 2009.

CHINESE TIRE DUTIES

- Customs has issued [guidance](#) on the ad valorem duties being imposed on certain Chinese rubber, pneumatic tires for use on motor cars and on-the-highway light trucks, vans, and sport utility vehicles effective September 26, 2009 due to the safeguard measure announced by President Obama.
- China has [requested](#) formal World Trade Organization (WTO) consultations with the U.S. under the WTO Dispute Settlement Body.

LOBBYISTS ON BOARD

The White House has [asked](#) executive agencies and departments not to appoint or reappoint anyone who has been a federally-registered lobbyist in the past two years to serve on agency boards and commissions working on matters or areas for which they provided lobbying services. It remains to be seen how agencies like the U.S. Trade Representative will follow this guidance.

CANADA COOL TO COOL

Canada has requested a WTO dispute settlement panel over the newly implemented U.S. country of origin labeling requirements (COOL) for agricultural goods. The [Canadian Government](#) has claimed that the requirements are so onerous that they have created a de facto trade barrier for Canadian exports. Mexico has joined Canada's claim.

TSA RULE ON AIR CARGO

The Transportation Security Administration (TSA) has published the Interim Final Rule on the Certified Cargo Screening Program (CCSP) for air cargo that includes TSA certification of U.S. facilities in the air cargo supply chain that volunteer to screen cargo before it is loaded on passenger aircraft. The rule becomes effective November 16, 2009. The TSA is accepting comments until that date. 74 Fed. Reg. [47672](#) (Sept. 16, 2009).

AGOA COMMENTS

The USTR has requested comments regarding the annual review of countries eligible for benefits under the African Growth and opportunity Act (AGOA). Comments are due October 19, 2009. 74 Fed. Reg. [48622](#) (Sept. 23, 2009).

CUSTOMS & EU IPR HELP

U.S. and EU customs authorities have jointly published a [brochure](#) and [guidelines](#) on Intellectual Property Rights (IPR) protections.

CUSTOMS COMMISSIONER

President Obama has nominated Alan Bersin to be the new Commissioner of U.S. Customs and Border Protection. Mr. Bersin is currently serving as DHS Assistant Secretary for International Affairs and Special Representative for Border Affairs.

COMMODITY JURISDICTION

The State Dept. Directorate of Defense Trade Controls is requesting comments by October 28 on the electronic version of the DS-4076 Commodity Jurisdiction determination form. 74 Fed. Reg. [49434](#) (Sept. 28, 2009).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/09		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	273	256
SUBZONES	645	540
PENDING		
ZONES		1
SUBZONES		21
MISCELLANEOUS		28
AVERAGE PROCESSING TIME (MONTHS)		
ZONES		8
SUBZONES		10