

# BRIEFINGS

ROUTING SLIP

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## COMPLIANCE PROGRAMS

Clients are urged to consider the following firm programs:

- [Export Compliance Plan](#)
- [Customs-Trade Partnership Against Terrorism \(C-TPAT\) Action Plan](#)
- [Focused/Compliance Assessment Plan](#)
- [Importer/Exporter Data Analysis](#)

Detailed information is linked on the firm website.

## C-TPAT

• Customs has issued a new [strategic plan](#) to increase the incentives and benefits to C-TPAT participants. Customs has proposed a two level C-TPAT [certification process](#). Importers that are C-TPAT certified, validated, and use best practices will be given a "Green Lane" with no security inspections, while other C-TPAT participants meeting minimal security standards will continue to receive security inspections, though fewer than non-C-TPAT certified importers.

• Customs will be holding a supply chain security training [seminar](#) on April 18-21, 2005 in Miami, Florida for certified C-TPAT members only. The first come, first served on-line registration process began on February 14.

## EU/US RICE WAR

The USTR has issued a [list](#) of tariff provisions for which duties may be raised, if the EU does not revise its rice import regime by March 1. 70 Fed. Reg. [6065](#) (Feb. 4, 2005).

## FIRM SEMINARS

The firm is offering the following seminars at our Kansas City office at no charge to clients on a first come/first served basis:

March 22-23 - FTZ

April 26-27 - Import/Export

June 21-22 - FTZ

Sept. 14 – Current Import/Export/FTZ Developments (at NAFTA Convention)

Dec. 7-8 - Import/Export

Contact Janet Haynes ASAP at [jhaynes@millerco.com](mailto:jhaynes@millerco.com) for reservations. More detailed information is available on our website.

## CUSTOMS BONDS

A notice containing [formulas](#) for calculating bond amounts has been posted to Customs website. Several changes have been made from current practice. The basic formula multiplies duties, taxes, and fees for the previous 12 months by 10%. Special rules apply for AD/CVD merchandise, unpaid bills, etc. The notice amends Customs Directives 009 3510-004 and 009 3510-005.

## NAFTA RULES OF ORIGIN

The President has issued Proclamation 7870 that modifies the NAFTA rules of origin for certain provisions in HTSUS Chapters 9, 12, 13, 21, 71, 84, 85, 90, and 95 entered from Canada after January 1, 2005. The effective date of these changes for products entered from Mexico will be established at a later date by the USTR. 70 Fed. Reg. [7611](#) (Feb. 14, 2005).

## SARBANES-OXLEY

Public companies should be aware that using and certifying compliance with Customs program requirements may subject them to Sarbanes-Oxley scrutiny under their internal Sarbanes-Oxley programs since revenue and financial transactions are involved.

## ACE – C-TPAT

Customs has eliminated the requirement that applicants (importers or brokers) for access to the Automated Commercial Environment (ACE) portal or ACE tests be participants in the Customs Trade Partnership Against Terrorism (C-TPAT). 70 Fed. Reg. [5199](#) (Feb. 1, 2005).

## U.S.-AUSTRALIA FTA CLAIMS

The Customs Automated Commercial System (ACS) has been modified to accept U.S.-Australia FTA claims through the Automated Broker Interface (ABI) system as of February 9, 2005. ADM [05-0146](#) (Feb. 9, 2005).

## FTAs

• The Bush Administration is planning a public show of support for the free trade agreement it has negotiated with five Central American countries and the Dominican Republic (DR-CAFTA). The effort is currently focused on addressing opposition based on textile issues. The U.S. Trade Representative is hoping to obtain Congressional approval by Memorial Day.

• Agricultural issues continue to delay FTA negotiations with Panama.

## DUTY DRAWBACK

- Customs is expected to publish a Proposed Rule regarding duty drawback for the Automated Commercial Environment (ACE). A Customs presentation at a recent Joint Industry Group (JIG) meeting provides a useful overview. The American Association of Exporters and Importers (AAEI) has published a "concept document" in advance of the Proposed Rule.

- The Miscellaneous Trade and Technical Corrections Act of 2004 (P.L. 108-429), which went into effect on December 18, 2004, contains several specific duty-drawback provisions affecting retail and returned merchandise, packaging materials, automatic liquidation of drawback claims, harbor maintenance fees, etc.

## CBP ICP

Customs has recently revised its Informed Compliance Publications on Customs Brokers and Recordkeeping.

## CARGO SECURITY

The Department of Homeland Security has issued a draft National Cargo Security Strategy Paper for use in developing a strategic plan. The draft paper focuses on identifying high risk cargo early in the supply chain, inspecting 100% of high risk cargo, cargo security measures such as seals, and continued interaction with the trade community. It also discusses transitioning the Custom-Trade Partnership Against Terrorism to mandatory requirements.

## TEXTILE ENTRIES

Customs has issued a memorandum indicating that, effective immediately, ABI filers may use the Remote Location Filing/Electronic Invoice Program (RLF/EIP) for Entry Type 01 textile entries. However, Customs indicates that if it requests the paper submission of a textile declaration, the filer must provide it immediately or Customs may revoke that filer's ability to use RLF/EIP.

## TSUNAMI

Countries impacted by the tsunami have asked the U.S. and other countries for increased market access for relief. The European Union is supporting reform of its Generalized System of Preferences (GSP) program, and the U.S. is considering different measures to provide easier market access. Eliminating the antidumping duty on shrimp is one consideration.

## AGR/NAFTA

Customs has issued a ruling holding that a NAFTA Certificate of Origin may be used in lieu of a manufacturer's affidavit to support an American Goods Returned entry under certain circumstances. Clients should be wary of this ruling because there are many instances where a product may qualify as U.S. for NAFTA purposes, but is not U.S. for AGR purposes. HQ 563132 (Jan. 13, 2005).

## CENSUS REGULATIONS

The revised Census export regulations are expected to be published as a Proposed Rule in mid-February. The Final Rule is expected to be implemented in the Fall of this year after Census has considered public comments received on the Proposed Rule.

## FDA PRIOR NOTICE/BTA

- Customs has issued Administrative Messages concerning the Prior Notice reject codes under the FDA Bioterrorism Act. Rejects are being issued for use of foreign-based consignees, failure to file prior notice, and use of invalid prior notice confirmation numbers. 366 entries have been rejected since November 8, 2004, for using foreign consignees. ADM 05-0019 (Jan. 5, 2005); ADM 04-2525 (Dec. 13, 2004).

- Customs has issued an Administrative Message ending use of exemption reason code "Y" as of February 1 for the FDA's food facility registration requirement. Continued use of the code will cause a rejection of Prior Notice submissions. ADM 05-0098 (Jan. 28, 2005).

## PAPS PROCEDURES

Customs has issued a memorandum on the Pre-Arrival Processing System (PAPS) to establish uniform procedures and standards for the review of PAPS entries. PAPS allows Customs to scan a barcode placed by the shipper on the Customs invoice to determine the release status of entries. PAPS became mandatory with the passage of the Trade Act of 2002.

## FAST PROGRAM

Customs has updated its fact sheet on the U.S./Canada Free and Secure Trade (FAST) program.

## EU SANCTIONS

The European Union (EU) is considering reimposing sanctions on the United States over its Foreign Sales Corporation/ Extraterritorial Income (FSC/ETI) export tax program. Although the U.S. has enacted a law to repeal the tax breaks, the EU is unhappy over two provisions on existing and transitional issues.

## MERCOSUR – EU FTA

The Mercosur countries (Argentina, Brazil, Paraguay, and Uruguay with Chile, Bolivia, Peru, and Venezuela as associate members) have announced their intention to resume free trade talks with the European Union and interest in free trade discussions with Canada.

## OFAC

The Office of Foreign Assets Controls (OFAC) is collaborating with U.S. Federal Reserve banks for screening and regulatory compliance with OFAC SDNs and embargo lists.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 2/15/05		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	262	249
SUBZONES	554	486
PENDING		
ZONES	3	
SUBZONES	19	
MISCELLANEOUS	38	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	7	
SUBZONES	9	