

ATTORNEYS AT LAW

BRIEFINGS

ROUTING SLIP

IMPORT/EXPORT ANALYSIS

We believe that purchasing government transaction records is one of the most effective means of identifying import/export compliance concerns. Calendar year 2005 data is now available from the Office of Strategic Trade (OST), National Finance Center (NFC), and Census. The Firm [can assist](#) in obtaining the data and providing a detailed analysis.

CUSTOMS COMMISSIONER

The President has [announced](#) the nomination of Ralph Basham, the current Director of the Secret Service, to be the next Customs Commissioner. If approved by the Senate, he will replace former Commissioner Robert Bonner, who retired in November. Do not expect trade facilitation to be at the top of the new agenda.

NEW AUDITS

Customs has [announced](#) a Quick Response Audit (QRA) program, which is more issue-specific and shorter than a Focused Assessment. QRAs are generally to target high risk areas. The Firm has already handled several early QRAs and clients should be concerned that audit risks may actually be increased by the short time period and very limited sample sizes.

C-TPAT STATISTICS

New statistics indicate there are 10,342 C-TPAT participants; 1,480 validations have occurred; and 2,304 validations are in process.

SEMINAR SCHEDULE

Room is still available in our March 14 – 15 FTZ, and April 5 – 6 Import/Export 101 client no charge training seminars. Access our [web site](#) for more information. Contact Sarah Rogers at srogers@millerco.com for reservations.

ISA AUDITS

Firms in the Importer Self-Assessment (ISA) program were told that they were no longer in the Customs audit pool. Customs has [announced](#) that ISA participants may still be audited under its new Quick Response Audit (QRA) program if potential risks are identified through regular Customs risk management analysis.

FSC WTO DECISION

On February 13th the World Trade Organization (WTO) Appellate Body ruled that the revised U.S. FSC export tax program transitional arrangements and contract “grandfathering” provisions continue to violate WTO standards. The eight-year effort by the EU is poised in 90 days to levy \$336m in sanctions against U.S. trade.

STANDARD GSP TO EXPIRE

Standard GSP for non-AGOA beneficiary countries will expire on December 31, 2006. Standard GSP for AGOA countries will remain in effect through September 30, 2015.

FTA/TPP PACKAGE

The firm has prepared a comprehensive CD-ROM package that provides complete resource and basic guidance documents for clients to implement an effective compliance program for all existing Free Trade Agreements and Trade Preference Programs. A detailed explanatory [memorandum](#) is available on our website. The package is available for a fee of \$2,000 with extra copies available at \$50. Contact Scott Taylor in our office for more information

CONFIDENTIAL TRADE DATA

Importers are generally not aware that certain services such as PIERS compile and sell to the public ocean freight bill of lading, shipper, consignee, goods description, etc. from bills of lading and manifests filed with U.S. Customs. An importer or consignee who wants to remove such information from public access can do so by submitting a two-year certification to Customs, requesting confidential treatment of its name and address on manifests. 19 C.F.R. § 103.31(d)(1). For more details on the exact process, contact Michael Utchell.

BYRD AMENDMENT

The House passed the Senate version of S. 1932 which repeals the Byrd Amendment. The President [signed](#) the bill into law on February 8, 2006; the effective date is October 1, 2007, which creates new issues.

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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FREE TRADE AGREEMENTS

- Customs has issued a [memorandum](#) providing instruction for preferential treatment claims made under the Morocco FTA.
- President Bush [notified](#) Congress of his intent to sign the recently negotiated Peru FTA. After signature, the President will submit implementing legislation to Congress. Upon implementation, 80% of U.S. exports of consumer industrial products and 2/3 of U.S. farm exports will become duty-free immediately.

PHARMA APPENDIX

We understand that no immediate action on implementation of duty reductions under the Pharmaceutical Appendix occurred at the Intercept Committee meeting in Brussels during the week of Jan. 23. There is no government momentum for duty reduction in pharmaceutical products. The best estimate for further consideration is January, 2007. Consideration is being given to a statutory change that would make the Pharmaceutical Appendix process similar to the Information Technology methodology by providing preferential duty treatment based on HTS classification. FTZs remain a viable option for duty elimination.

HAND CARRIES

According to the *Financial Times*, the incoming CEO of Nokia was fined nearly \$40,000 for failing to declare \$20,000 in personal goods upon arrival in Finland. Customs authorities in Switzerland alerted their Finnish counterparts after he filed a value added tax (VAT) refund for the goods as he departed Switzerland for Finland.

FTZ e-214

The first official complete e-214 transmission occurred on Friday, January 27, 2006. The e-214 process will resolve many timing and distance concerns that firms have experienced through the years. Contact Linda King for implementation questions.

AES INTERFACE

Customs has [posted](#) a notice that describes the Automated Export System (AES) partnership interfaces with five different agencies. The agencies are the Bureau of Industry and Security; Bureau of Census; Office of Defense Trade Controls; Nuclear Regulatory Commission; and The Office of Foreign Assets Control.

WPM GUIDANCE

- Customs has posted revised [operating procedures](#) on the new wood packaging materials (WPM) rules, addressing returns of non-compliant WPM to or from Mexico and Canada; the definition of "reexport" of non-compliant WPM; and conditions on the transit of "immediate transportation" and "transportation and exportation" shipments with non-compliant WPM.
- Customs has posted 6 new [FAQs](#) on annotation compliance, how to handle rejections of unmarked or non-compliant WPM in other countries, stockpiling Canadian/ U.S. WPM, and marking legibility requirements.
- USTR sources have indicated that the European Union will delay implementation of its debarking and marking requirements for wood packing materials (WPM) until Jan. 1, 2009. The rules were to go into effect March 1, 2006.

PMS APPLICATIONS

Customs has issued an ABI Administrative Message that outlines steps to facilitate Periodic Monthly Statement (PMS) applications and avoid rejects for non-portal accounts and C-TPAT partners who hold portal accounts. ADM [06-0148](#) (Jan. 30, 2006).

TEXTILE SEIZURES

Since October, Customs has [seized](#) more than \$10 million in textile products that were misdescribed in order to evade duties or circumvent quotas. Expect continued enforcement in this area as duties and fees on textiles make up 43% of all Customs revenues collected.

EXPORT VIOLATIONS

Two companies that self-disclosed export control violations saw a reduction in the civil fines assessed by BIS of 48% and 69%. The CIT Group of Livingston, N.J. reported unlicensed shipments to Israel and the Philippines and paid a \$74,800 civil fine; Becton Dickinson reported unlicensed exports to an Indian organization on the BIS Entity List and paid a \$123,000 civil fine.

ITAR DEBARMENT

Pursuant to the International Traffic in Arms Regulations (ITAR), the Department of State has debarred 5 people who have been convicted of violating or conspiring to violate the Arms Export Control Act. 71 Fed. Reg. [2291](#) (Jan. 13, 2006).

ITAR/DDTC FEES

The Directorate of Defense Trade Controls (DDTC) has raised the fees for registering as a manufacturer or exporter under the International Traffic in Arms Regulations (ITAR) and reduced the maximum renewal period from 4 to 2 years. 69 Fed. Reg. [70888](#) (Dec. 8, 2004) 71 Fed. Reg. [3762](#) (Jan. 4, 2006).

NEW D-TRADE FORMS

The State Department/ Directorate of Defense Trade Controls ("DDTC") has announced the introduction of new forms for use in [D-Trade](#) and published sample forms and guidelines for completion. The forms are pending approval by the Office of Management and Budget. Once they are approved, their use in D-Trade will become mandatory.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 2/15/06		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	267	253
SUBZONES	576	478
PENDING		
ZONES	3	
SUBZONES	15	
MISCELLANEOUS	33	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	9	
SUBZONES	10	