

ROUTING SLIP

BRIEFINGS

FIRST SALE RULE

Customs has proposed a new interpretation of which sale qualifies as the "sale for exportation" when determining transaction value in import transactions involving multiple sales. Customs currently permits importers to use the first sale, but is proposing to require use of the last sale (i.e., the price paid by the U.S. buyer). There are several substantive arguments against the Customs proposal, which will increase Customs revenues. Comments are due April 23, 2008, and we encourage affected clients to file comments. Please contact Tom Lobred or Sean Murray with questions. 73 Fed. Reg. [4254](#) (Jan. 24, 2008); 73 Fed. Reg. [7315](#) (Feb. 7, 2008).

C-TPAT 2007 STATISTICS

Customs has posted a [summary](#) of C-TPAT statistics for 2007. Of particular interest, while 3,011 validations were conducted (601 were revalidations), Tier 3 status was granted to only 17 companies. In comparison, 112 companies were suspended or removed for security breaches or failing to meet the minimum criteria. Customs is making it more difficult for participants to receive Tier 3 status.

DDTC – BEGINNER'S GUIDE

The U.S. Department of State Directorate of Defense Trade Controls (DDTC) has [posted](#) a beginner's guide to the regulation of defense trade, entitled "Getting Started with Defense Trade."

2008 SEMINAR SCHEDULE

- We have scheduled 3 Advanced Seminars for Spring 2008:
 - **March 4-5** - Exports
 - **April 15-16** – Valuation
 - **May 20-21** - Classification
- Our client-only, free Import/Export 101 seminar for Spring 2008 is full, but another has been scheduled for August 12-13.
- More information is available on our web site. All seminars are on a first-come, first-served basis. Register now by e-mail to Kelly Galate at kgalate@millerco.com.

10 + 2 COMMENT

Customs has extended the comment period for its proposed "10 + 2" rule. Comments are now due March 18, 2008. 73 Fed. Reg. [6062](#) (Feb. 1, 2008). The Proposed Rule will have a substantial impact on all importers, FTZs, and returns operations. Clients are encouraged to submit comments and initiate necessary preparations. Please contact Sean Murray with questions.

FTZ BACKGROUND CHECKS

Mr. Thomas Heffernan, Cargo & Conveyance Security, Customs Office of Field Operations, announced Feb. 12 at the Nat'l Assoc. of Foreign-Trade Zones (NAFTZ) Seminar that Customs is working to take FTZ background investigations back from ICE. This would significantly reduce the time for completing this piece of the Activation process.

FTZ DEVELOPMENTS

- The Executive Secretary of the Foreign-Trade Zones Board, Andrew McGilvray, presented a new concept at the NAFTA Seminar in Washington D.C. on February 12 that could limit the number of general-purpose zone sites and designated zone acres. The concept is a "work in progress." Please contact Marshall Miller or Scott Taylor for additional information.
- Electronic reporting to Census via AFTZRP ends in March. Beginning April 1, 2008, the only way to file statistical information with Census and maintain Cumulative Admission procedures is to file via e-214.
- Some Customs Ports have denied requests from the trade to utilize e-214 procedures due to no e-214 training, low staffing, computer capabilities, etc. All Customs Ports have the system capability and have been mandated by Customs Headquarters to make e-214 processing available.
- Site numbers for subzones and Port Codes are being entered into ACE by the FTZ Board. In some instances this information has caused e-214 rejects or required the filing of a CPBF 7512 instead of an e-PTT for in-port moves. All e-214 filers need to ensure that the correct zone ID and Port Code are properly identified in ACE and ACS systems. Contact Linda King for assistance.
- Expect more Customs enforcement actions involving FTZs in the future.

LICENSE EXCEPTIONS/AES

Census has issued an Automated Export System (AES) [broadcast message](#) stating that, effective April 28, 2008, Export Control Classification Numbers (ECCNs) must be reported in AES filings for exports using the following 11 license exceptions and codes: C38-TSR (technology and software under restriction); C41-RPL (servicing and replacement of parts and equipment); C42-GOV (governments, international organizations, and international inspections under the Chemical Weapons Convention); C43-GFT (gift parcels and humanitarian donations); C44-TSU (technology and software – unrestricted); C45-BAG (Baggage); C46-AVS (aircraft and vessels); C47-APR (additional permissive reexports); C48-KMI (key management infrastructure); C49-TAPS (Trans-Alaska Pipeline Authorization Act); and C50-ENC (encryption commodities and software).

EXPORT CONTROL REFORMS

President Bush has signed [directives](#) to improve the export control process. A [press release](#) provides more detail. Included are more financial resources, upgrades to the electronic licensing system, and increased interagency enforcement and dispute resolution. A user fee may be charged to recoup costs. The reform was spearheaded by industry groups.

2008 BIS REPORT

The Bureau of Industry and Security (BIS) has released its [2008 Report on Foreign Policy-Based Export Controls](#), discussing various types of foreign-policy export controls and revisions that have occurred in the last year.

CSI

The U.S. Government Accountability Office has just released a [report](#) analyzing the Container Security Initiative (CSI), and finding process deficiencies in evaluating the screening of high risk cargo.

DUTY-FREE ELIGIBILITY

Customs has [proposed](#) the revocation or modification of twenty-three ruling letters on HTSUS 9801.00.20 duty free treatment, which involves goods exported from the U.S. under a lease or similar use agreements and subsequently returned in the same condition. Comments are due February 29, 2008. 42 [Cust. B. & Dec.](#) 1 (Jan. 9, 2008).

WOOD PACKAGING

The Animal Plant Health Inspection Service (APHIS) has issued a new Final Rule, updating regulations for methyl bromide treatment of wood packaging materials. 73 [Fed. Reg.](#) [7189](#) (Feb. 7, 2008).

BROKER EXAM

Customs has [announced](#) that the next Customs broker license exam will be held April 7, 2008. The application and exam fee are due by March 7, 2008.

CUSTOMS GOES COUNTRY

Canadian country music artist Shirley Myers has produced a short [public service announcement](#) for U.S. Customs reminding U.S. and Canadian citizens of the proper documents for entering the U.S. from Canada.

BONDED WAREHOUSES

Customs has proposed changes in Class Nine (9) bonded warehouse procedures that will change the entry period; change treatment of overages, shortages, and damages; and permit further automation. Comments are due March 17, 2008. 73 [Fed. Reg.](#) [2843](#) (Jan. 16, 2008).

BANANA WARS, PART 10

The World Trade Organization (WTO) has again ruled in favor of the U.S. against the EU's preferential tariff treatment of bananas from former European colonies. A final appeal is available to the EU before potentially hundreds of millions of dollars in retaliatory duties may be imposed by the U.S.

CHINESE ESPIONAGE

The U.S. Justice Department has [announced](#) the arrests of four individuals, including a Defense Department employee and a former Rockwell Int'l/Boeing employee, on charges of passing classified documents and trade secrets to China. The announcement puts more attention on export controls for China. The "China Rule" recently adopted by the Bureau of Industry and Security recently has come under harsh criticism, including the [assertion](#) that two of the five approved "verified end users" (VEUs) have ties to the Chinese military.

CONGESTION FEE PROPOSAL

Representatives Ken Calvert (R-CA) and Jesse Jackson Jr. (D-IL) introduced bill [H.R. 5102](#) on January 23, 2008, which would impose a freight fee of the lesser of .075% or \$500 on imports to ease port congestion. The Congressional [press release](#) states that the purpose of this legislation is to fund local transportation authority services and improve port infrastructure.

LAPTOPS

A recently-filed lawsuit challenges long-standing Customs legal precedent as applied to searches of laptop computers and other electronic devices carried by travelers into the U.S. The U.S. Government defends current practices, saying that searches of electronic equipment are necessary in the fight against terrorism. [Asian Law Caucus, et al. v. DHS](#), Case No. 08-0842, (N.D. Cal. February 7, 2008).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 2/15/08		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	271	256
SUBZONES	602	500
PENDING		
ZONES		1
SUBZONES		22
MISCELLANEOUS		22
AVERAGE PROCESSING TIME (MONTHS)		
ZONES		8
SUBZONES		8