

# BRIEFINGS

ROUTING SLIP

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## EXPORT DIVERSION/UAE

The Bureau of Industry and Security (BIS) has proposed a new rule to create a Country Group "C" consisting of countries that are "Destinations of Diversion Concern." The countries will be identified based on prior diversion issues, insufficient controls, lack of cooperation, etc. Insiders have indicated that the rule is aimed at countries like the United Arab Emirates (UAE), where the U.S. government believes serious diversion issues exist. The UAE (Dubai, Abu Dhabi, et al.) is already developing stronger export controls to address U.S. concerns, and avoid being placed in the proposed country group. 72 Fed. Reg. [8315](#) (Feb. 26, 2007).

## SWPM PENALTIES

Customs has published [guidelines](#) for liquidated damages and penalties for violations of its solid wood packaging material (SWPM) regulations. Penalties and/or liquidated damages may be assessed beginning March 9, 2007.

## NAFTA DUTY-DEFERRAL

The Court of International Trade has rejected an argument that the NAFTA Duty-Deferral program was unconstitutional because it placed duties on exports. The CIT held that duty payments under the NAFTA Duty-Deferral program were merely a deferral of the import duty, and not a duty on exports. *Nufarm America's Inc. v. U.S.*, CIT Slip Op. [07-23](#) (Feb. 15, 2007).

## 2007 SEMINAR SCHEDULE

- Our advanced seminar on export controls was well received. Spaces are filling up fast for our remaining 2007 training seminars. Our \$1,000 advanced seminars are scheduled for:

- March 27-28: Classification
- May 8-9: Valuation

- Our client-only free seminars are scheduled for:

- April 18-19: Import/Export 101
  - June 20-21: FTZ 101 (Full; waiting list only)
  - Nov. 28-29: Import/Export 101
- 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](mailto:kgalate@millerco.com).

## 2007 HTSUS

The U.S. International Trade Commission has [announced](#) that Chapter 75 (nickel and articles thereof) was inadvertently omitted from the hard copy version of the 2007 HTSUS. It will be added in the hard copy 2007 supplement to be printed later this year. Chapter 75 may be accessed on the [ITC website](#).

## HTSUS - EXPORTS

The Census Bureau has published a list of [175 HTSUS classifications](#) that are invalid for reporting exports, either in AES or on a paper Shipper's Export Declaration. Attempts to enter these HTSUS classifications into AES will result in a fatal error. A Schedule B Number is required.

## 10 + 2 RECOMMENDATIONS

The Customs 10+2 advance data elements proposal keeps rolling on towards late 2007 implementation. The Commercial Operations Advisory Committee (COAC) has provided Customs with 37 recommendations regarding the draft proposal. The expansive recommendations cover six categories: (1) the 10+2 data elements and definitions, (2) parties to file the data, (3) how the data elements will be filed, (4) implementation of the data elements, (5) the final regulations, and (6) other recommendations. Please contact us for more information.

## DR-CAFTA

- President Bush has issued a proclamation to include the Dominican Republic in DR-CAFTA, effective March 1, 2007.
- The USITC has extended the deadline to March 16 for submissions on the effect of modifications to DR-CAFTA for certain rules of origin and tariffs on certain apparel goods. 72 Fed. Reg. [9353](#) (March 1, 2007).

## CHINA "CATCH-ALL"

Bureau of Industry and Security officials have indicated that they are close to publishing a Final Rule that revises export controls on technology exports to China and creates a "validated end-user" (VEU) program. The Office of Management and Budget (OMB) may require a full-blown economic analysis of the rule, which could delay finalization by months.

## REVISED CENSUS FORM

A revised "[Request for Change in Census Parameters](#)" is now available on CBP's website. This form may be used by the Trade to request an update or correction to the commodity parameters set by Census to stop recurring warning messages.

## ACE UPDATES

- An updated "draft" [deployment schedule](#) for equipping land borders with ACE e-Manifest has been posted to Customs website.
- Phased enforcement of mandatory ACE truck e-Manifest will begin April 19, 2007, for all land border ports in California, New Mexico, and Texas, and at all land border ports in Michigan and New York on May 24, 2007. 72 Fed. Reg. [8109](#) (Feb. 23, 2007).
- In the test of the ACE truck e-Manifest, truck carriers without ACE Portal accounts may use third parties with ACE accounts to file on their behalf. 72 Fed. Reg. [12181](#) (March 15, 2007).
- Carriers who use ACE e-Manifest to transmit in-bond movements to Customs are not required to provide a [paper CBPF 7512](#) at the time of arrival into the U.S. or upon arrival at the destination port if their e-manifest cover sheet includes certain required information.

## GSP BENEFITS

- The USTR recently published a [notice](#) announcing the availability of 2006 import statistics related to GSP Competitive Need Limitations (CNLs), and the availability of [four lists](#) detailing possible GSP changes due to the CNLs. Comments are due by March 16. Clients that rely on duty free GSP imports should carefully examine this information. 72 Fed. Reg. [8808](#) (Feb. 27, 2007).
- The USTR has updated its web document entitled "[The Generalized System of Preferences \(GSP\) Guidebook](#)" to incorporate GSP modifications from the Tax Relief and Health Care Act of 2006,

## CONTAINER SECURITY

According to [Shipper's NewsWire](#), the Department of Homeland Security is expected to issue technical requirements for container security devices (CSD) by this summer. The requirements are expected to cover secure communication capabilities, the sensor data to be transmitted, transmittal methods, other government agencies' access to the data, device survivability, false alarm rates, power/battery life, probability that the device can be detected, data messaging format, event logs, and data encryption.

## CRIME CONTROL EXPORTS

The BIS has issued a Final Rule revising its license exceptions and policy relating to certain "crime control" items, including clearly extending the controls to certain software and technology, permitting the use of the "GOV" license exception for items consigned to a U.S. government agency, and prohibiting the use of any license exceptions for implements of torture. 72 Fed. Reg. [9847](#) (March 6, 2007).

## FWS 3-177 FORM CHANGES

The Fish and Wildlife Service has [announced](#) changes to Form 3-177, including a requirement to indicate if live wildlife is venomous and voluntary submission of identifier data. The eDecs version has been updated. eDecs users are expected to use the new version beginning March 5, but hard copies of the form are currently unavailable, so use of the old form will be permitted until April 1, 2007.

## BAD APPL'S AT DDTC

The Directorate of Defense Trade Controls (DDTC) has [reported](#) that since Dec. 1, 2006, approximately 20% of applications submitted have been returned without action (RWA), due to both substantive and technical shortcomings. DDTC previously corrected such applications, but has ceased doing so.

## CROSS-BORDER TRUCKING

The U.S. Dept. of Transportation announced a pilot program on February 23 to allow, for the first time, U.S. trucks to make [deliveries](#) in Mexico and Mexican trucks to make deliveries beyond the current 25-mile U.S. border limit. The [pilot](#) program will involve 100 U.S. and 100 Mexican trucking operations. *The Wall St. Journal* (Feb. 24, 2007).

## CARGO SCANNING

100% cargo scanning is back on the table. On March 13, the Senate amended the 9/11 Commission Act ([S. 4](#)) to include 100% cargo scanning. The Senate passed S.4 on March 13.

## FTA DEVELOPMENTS

Free Trade Agreement (FTA) negotiations with several countries continue to run into potential roadblocks. Supporters are pushing to complete the FTAs before the President's Trade Promotion Authority ("fast-track") expires on July 1, 2007.

## PORT SECURITY

The Transportation Security Administration (TSA) and Coast Guard have issued a Final Rule on the biometric Transportation Worker Identification Credential (TWIC). 72 Fed. Reg. [3491](#) (Jan. 25, 2007).

## U.S./INDIA EXPORT CONTROL

The U.S. government is consulting with India on revising India's export control laws so U.S. controls on exports to India—particularly on chemicals and other dual-use goods can be relaxed. A Validated End User (VEU) program may be established by mid-2007.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/07		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	270	256
SUBZONES	594	494
PENDING		
ZONES	1	
SUBZONES	12	
MISCELLANEOUS	23	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	