

# BRIEFINGS

ROUTING SLIP

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## EXPORT COMPLIANCE

Beginning January 1, 2005, all export shipments requiring a Shipper's Export Declaration (SED) must be filed electronically through the Automated Export System (AES). The data will be reviewed by the Customs National Targeting Center and PGAs. We have developed a comprehensive methodology for guidance on upgrading export compliance programs. Details are on our [web site](#).

## EXPORT FINES/PENALTIES

Recently [published](#) violations indicate that voluntarily reporting export violations won't guarantee reduced fines. BIS appears to be issuing fewer warning letters and more fines, whereas the State Department (USML) is increasing its issuance of warning letters and issuing fewer fines.

## EXPORT "SAFE HARBOR"

BIS has issued a notice requesting comments on a voluntary information collection process, which allows BIS to confirm that exporters have resolved any red flags associated with an export transaction. Submission of this information qualifies the exporter for "safe harbor" treatment, avoiding prosecution. Comments were due by May 14, 2004. 69 Fed. Reg. [12118](#) (March 15, 2004).

## TRADE BARRIERS

The Office of the U.S. Trade Representative has released its 2004 annual [report](#) on foreign trade barriers to U.S. exports and U.S. efforts to reduce those barriers.

## 2004 FIRM SEMINARS

There are openings for the free seminars in June and July. Information is available on our [web site](#).

## FTZ BOARD ORDER

In an unusual move, the FTZ Board has recently approved a General-Purpose Zone Expansion Application in the LA area, subject to a five-year time limit. This is the first five-year time restriction, which registers the Board's displeasure with Grantee organizations that will not manage zone expansion activity. This creates a serious new standard. FTZ B.O. 1331. 69 Fed. Reg. [26065](#) (May 11, 2004).

## FSC/ETI BILL PASSES SENATE

The Senate passed [S.1637](#) on May 11<sup>th</sup>. The bill amends the IRS Code to repeal an export-tax incentive the WTO ruled illegal, implements a 3% tax rate reduction for domestic manufacturers, modifies tax provisions for multinational corporations, and includes many special interest amendments.

## TEXTILE QUOTAS

- All quotas on textile and apparel goods are scheduled to be phased out by January 1, 2005, by WTO members. Expect extension efforts.
- Customs has recently created a [web page](#) specifically to address quota phase outs.
- CBP has indicated that it has no plans to extend the [quota-preprocessing program](#) (QPP) test beyond the December 31, 2004 expiration date.

## CUSTOMS: "R&D DUTIABLE"

In two rulings pertaining to R&D payments, Customs found the payments made to parties related to the seller to be includable in the Price Actually Paid or Payable. This should be of concern to clients making R&D payments to related parties. We do not believe these rulings are correct. Contact Tom Lobred for more information. HQ [548306](#) (July 9, 2003) and HQ [548331](#) (Oct. 31, 2003).

## BYRD AMENDMENT

- The European Commission (EU) remains convinced that the United States will not repeal the Byrd Amendment. It is preparing a retaliation list to impose punitive tariffs up to 20 percent.
- An analysis of the number of non-steel AD/CVD filings since 2001 when the Byrd Amendment was signed into law indicates that the number of filings has more than doubled.

## SED RENAMED "EEI"

"Electronic Export Information" is the new name for the data currently submitted on the paper SED. This change is part of the transition requiring electronic filing of all export documents through AES, with the targeted effective date of January 2005.

## BIS 2003 ANNUAL REPORT

The BIS has issued an [Annual Report](#) for fiscal year 2003, focusing on accomplishments, policies, regulatory changes, including challenges regarding export controls with particular countries, and licensing arrangements.

## EXPORT SANCTIONS

- As of May 12, most U.S. exports to Syria have been prohibited, and previously issued export licenses and permits are revoked. There are limited exceptions. In addition, the Secretary of Treasury is required to block all property and other assets of individuals and entities that are deemed to contribute to Syria's proliferation activities and support of international terrorism. E.O. 13338 dated May 11, 2004. 69 Fed. Reg. [26749](#) (May 13, 2004). Revised 69. Fed. Reg. [26766](#) (May 14, 2004).
- The President lifted sanctions against Libya on April 23. OFAC Sanctions remain on all blocked persons on the Specially Designated Nationals (SDN) lists, and all flights to or from Libya or operated by Libyan carriers. The lifting of sanctions does not exempt exporters from complying with the regulations of OFAC, State Department and BIS.

## GLOBAL SECURITY

As expected, U.S. advance manifest rules will soon be globalized. It will require a higher level of detailed information for all U.S. exporters. The [World Customs Organization](#) (WCO) has finalized a set of technical recommendations to be discussed and agreed to in June in Brussels. One requirement will be a unique consignment reference (UCR). The focus will be on secure supply chains and "authorized traders."

## WTO - GSP

The appellate Body of the [World Trade Organization](#) (WTO) has decided that its members may now be selective and choose the developing countries they want to conduct business with under the GSP.

## WTO TALKS

Negotiations on tariff cuts for industrial goods in the Doha Round remain at a standstill. The WTO hopes to have an outline of the items that have been discussed by July.

## DHS

- The Department of Homeland Security (DHS) recently submitted to the White House a "Concept of Operations" outlining its regional structure plans. Details of the regional structure plans are not yet available.
- DHS Secretary Tom Ridge announced that the United States will seek to expand CSI to an additional 10 high volume ports this year.

## FTAs

- The Australia [FTA](#) will be signed May 18<sup>th</sup> in Washington D.C. in hopes of securing congressional approval before the August recess.
- The Office of the U.S. Trade Representative (USTR) has posted to its website the [draft](#) text of the U.S.-Central America Free Trade Agreement (CAFTA) with the Dominican Republic.
- President Bush announced that FTA [negotiations](#) between the U.S. and Colombia will begin May 18. Peru and Ecuador will join the initial negotiations.
- A sixth round of talks regarding an FTA with the Southern African Customs Union (Botswana, Lesotho, Namibia, Swaziland and South Africa) and the United States are scheduled for June 22-27 in Atlanta, Georgia.

## COPPER EXPORTS

- A Petition has been filed requesting that export monitoring and controls be imposed on copper scrap and copper-alloy scrap (classified under 7404.00.0020, 0045, 0062, and 0080). Comments were due by May 13, 2004. 69 Fed. Reg. [21815](#) (April 22, 2004). Expect more such actions.
- A public hearing on the copper issue will be held May 19. 69 Fed. Reg. [25856](#) (May 10, 2004).

## EXPORT LICENSING

The BIS received a total of 12,918 license applications in 2003, compared to 11,001 in 2002.

## FDA PRIOR NOTICE

- The FDA and Customs have announced a [joint plan](#) to integrate prior notice timeframes. The joint plan proposes the following reduced timeframes for prior notice: (1) 1 hour by truck (30 minutes for FAST participants); (2) 2 hours by rail; and (3) 4 hours by air, except for "wheels up" for North America down to the equator. Comments were due by May 14. 69 Fed. Reg. [19765](#) (April 14, 2004).
- The Food and Drug Administration (FDA) has issued a [notice](#) announcing new features that were added to its Prior Notice System Interface (PNSI).
- Customs and Border Protection (CBP) issued Administrative Message 04-1147 dated May 5, 2004 regarding full ABI edits for FDA prior notice effective May 13, 2004. The message states that the FDA registration number is not a mandatory data element at this time and that the absence of a registration number will not cause an ABI reject.
- The FDA has issued a second edition of its [Questions and Answers](#) on the Prior Notice requirements for imported food.
- The FDA has issued a revised [list](#) of HTSUS classifications flagged with prior notice indicators FD3 or FD4.

## ADVANCED MANIFEST

Customs issued an "Announcement of Compliance Dates" for advance electronic notification by rail carriers. The dates of compliance vary, depending on the port of entry. 69 Fed. Reg. [19207](#) (April 12, 2004).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/04		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	260	247
SUBZONES	534	453
PENDING		
ZONES	3	
SUBZONES	12	
MISCELLANEOUS	27	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	8	