

ATTORNEYS AT LAW

BRIEFINGS

ROUTING SLIP

MANDATORY AES

- Expect final AES details in a Notice of Proposed Rulemaking issued in September 2004. The Comment period will close in November 2004 and the final rule will be implemented in March 2005.
- Applications for AES Option 4, post-departure filing of export information, will again be accepted.

CARGO SECURITY – WCO

The WCO [adopted](#) a global security-facilitation strategy that will look like an internationalized version of C-TPAT/CSI effective June 2005.

CUSTOMS BONDS

- Due in part to the reported \$130 million shortfall in antidumping duties that Customs did not collect in fiscal year 2003, Customs is changing the way it calculates minimum requirements for continuous bonds. Under the new formula, importers would have to post a bond for an amount equal to the antidumping duties owed, as opposed to the current process of 10% of the duties paid in the previous year.
- Also being considered is raising the minimum bond amounts for importers making periodic payments under ACE to cover the increased financial exposure of periodic payments. This increase in the amount of the bonds and the charge for the special bond rider will be significant. It may make periodic entry less desirable.
- We understand the formulae for all other Customs bonds are also being reconsidered.

FIRM SEMINAR

The firm will be hosting a free seminar for clients on Customs, trade, and foreign-trade zone current issues, on the evening of Oct. 26 during the NAFTA Convention at the Westin Resort Hilton Head Island in South Carolina. Contact Janet Haynes for registration by October 1. The Convention program this year is much more extensive. Many key U.S. government officials will be in attendance.

BIS UNVERIFIED LIST

BIS issued a notice that it has expanded the criteria for including entities on its "Unverified List." The expanded criteria now include parties involved in export transactions where the existence or authenticity of the end user, intermediate consignee, ultimate consignee, or other party to an export transaction cannot be verified. Inclusion of any party on the List constitutes a "red flag" as found in 15 C.F.R. Part 732. 69 Fed. Reg. [42652](#) (July 16, 2004).

EXPORT ADMIN

Since Congress has not renewed the Export Administration Act, President Bush has extended for another year Executive Order 13222 that continues U.S. export control regulations found in 15 C.F.R. Parts 730-774. 69 Fed. Reg. [48763](#) (Aug. 10, 2004).

CBP HQ PHONE NUMBERS

As of Aug. 2, Customs Headquarters phone numbers changed. The recorded transition number will be available for 60 days.

WTO – DOHA ROUND

The WTO issued a [press release](#) stating that a framework has been established for concluding the Doha Round. The framework includes agreements on such topics as: establishing a process for abolishing agricultural export subsidies including cotton; tariff reduction on industrial products, etc. While this represents progress, do not expect quick final action.

BTA – FDA PRIOR NOTICE

- FDA and CBP [announced](#) a delay in full enforcement of certain provisions of the Prior Notice interim final rule that was to take effect on August 13, 2004. Discretionary enforcement will be in effect for registration numbers, B/L-AWB numbers, and ultimate consignee data.
- The FDA issued a revised Compliance Policy Guide (CPG) that describes its strategy for enforcing the requirements of the prior notice interim final rule while maintaining an uninterrupted flow of food imports.

PHARM APPENDIX

The USTR issued a notice regarding the expansion of the [list](#) of pharmaceuticals subject to reciprocal duty elimination by certain members of the World Trade Organization (WTO). Note the important addition of prefixes and suffixes in order to designate the salt, ester, or hydrate form of an active ingredient. Comments are due by September 17, 2004. Do not expect quick final action by the WTO as significant opposition continues. 69 Fed. Reg. [49940](#) (Aug. 12, 2004).

ADVANCE MANIFEST

- As of August 13th, Customs requires advance electronic transmission of manifest information through its Air Automated Manifest System for any cargo arriving at Eastern U.S. ports of entry. Advance electronic information requirements for ports in the Central U.S. will be implemented on October 13, 2004, and Western U.S. ports on December 13, 2004.
- Customs has updated its Frequently Asked Questions (FAQ) website page with new information about the advance manifest notice requirements for inbound cargo for [all modes](#) of transportation.
- A new Maritime Security Initiative, the Advanced Trade Data Initiative (ATDI), will gather and analyze specific information well in advance of the current 24-Hour Rule.

FTAS

- The President [signed](#) the U.S.-Australia FTA implementing legislation into law on August 3, 2004. For the first time, the Australian Parliament amended the signed agreement. U.S. implementation will be delayed.
- USITC is seeking comments on the proposed U.S.-Bahrain FTA and the effects it might have on the economy. Written comments are due by August 17, 2004. 69 Fed. Reg. [45077](#) (July 28, 2004).

OFAC –AG-MED GOODS

The Office of Foreign Assets Control (OFAC) has requested comments on the effectiveness of its licensing policies of agricultural and medical products to Iran, Sudan, and Libya. Comments are due by September 8, 2004. 69 Fed. Reg. [48183](#) (Aug. 9, 2004).

DR-CAFTA FTA

The Dominican Republic formally entered [CAFTA](#). The agreement will be known as the U.S.-Dominican Republic-Central America Free Trade Agreement (DR-CAFTA).

HTSUS/SCHEDULE B

Census has posted an updated [list](#) of the Harmonized Tariff Schedule of the United States (HTSUS) classifications that may not be used in lieu of Schedule B numbers for SED or AES reporting. Clients are reminded that, for most articles that are exported, the HTSUS classification may be used in lieu of the Schedule B number except for certain agricultural products and aircraft parts.

NAFTA ORIGIN RULES

- The U.S., Canada, and Mexico have reached a tentative agreement to liberalize the NAFTA rules of origin effective on January 1, 2005 for chemicals, pharmaceuticals, plastics and rubber, motor vehicles and parts, footwear, and copper.
- The USITC has launched a new investigation ([NAFTA-103](#)) into the probable economic effects of modifying NAFTA rules of origin for a series of products not identified in the July 16, 2004 press release: spices, carrageenan, seasonings, speed drive controllers, printed circuit assemblies, precious metals, household appliances, parts of parts, loudspeakers, thermostats, and toys. The USITC is requesting comments by August 27, 2004. 69 Fed. Reg. [47177](#) (August 4, 2004).
- The USTR has issued a notice modifying the NAFTA rules of origin for goods of Mexican origin. These modifications were previously implemented for goods of Canadian origin on January 23, 2003. 69 Fed. Reg. [42492](#) (July 15, 2004).

AMMEX v. U.S.

The long-standing dispute over sales of gasoline for export in a duty free store continues. The July decision is a victory for Ammex. The USCIT held that Customs could not revoke a ruling letter based on a non-binding, informational letter from the IRS to the petitioner. *Ammex, Inc. v. United States Slip-Op.* [04-89](#) (July 20, 2004).

PR FTZ TAX ADVANTAGE

The Governor of Puerto Rico has signed Law Number 159 that would amend and expand the tax benefits for companies operating in foreign-trade zones in Puerto Rico. The law establishes a new excise tax exemption for all inventories and equipment, both of foreign and domestic origin, within a foreign-trade zone. The Law also expands current tax exemptions to include a 60% exemption for real property located within a foreign-trade zone.

CHEMICAL EXPORTS

The BIS has issued a notice amending the EAR to implement jurisdictional changes that switch certain energetic materials and other chemicals between the USML and the CCL. 69 Fed. Reg. [42862](#) (July 19, 2004).

ACE

- Customs posted to its web site various materials (mostly PowerPoint presentations) related to the June 28-July 1, 2004 [TSN](#) meeting. ACE is currently on a 10-year track; the September meeting was cancelled and rescheduled for February 2005.
- Customs is expecting rapid growth, once the account revenue [feature](#) in ACE is introduced. Increased bond amounts may restrict the program growth.

CUSTOMS FY 2004 DATA

Customs released its mid-year statistical report on imports entitled [Import Trade Trends FY 2004 Mid-Year Report](#).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/04		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	260	247
SUBZONES	538	455
PENDING		
ZONES	3	
SUBZONES	11	
MISCELLANEOUS	28	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	7	
SUBZONES	8	