

# BRIEFINGS

## PHARM. CLASSIFICATION

Customs is considering a significant change to the classification methodology of at least Chapter 29 and 30 drugs that have not yet received NDA approval and an NDC number. It believes that these materials are not drugs and should be classified as a chemical-other under HTS 3824.90.9050 and dutiable. The firm is leading the opposition at Customs Headquarters, the FDA, and at USTR because of WTO implications under the 1995 Pharmaceutical Accord.

## CUSTOMS DISCOVERY TEAMS

As a result of the 1/14/99 *Wall Street Journal* front page story, expect Customs to be very active in unannounced inspections and tougher handling of bonded warehouses, CESs, foreign-trade zones, in bond transfers, TIBs, etc.

## ANTIBRIBERY PACT

The U.S. deposited its instrument of ratification to become a contracting party to the OECD Convention on Bribery of Foreign Public Officials. All 29 OECD countries signed the pact which enters into force on February 15, 1999. OECD 98-117a (Dec. 9, 1998).

## NAFTA ORIGIN CERTIFICATES

Clients are reminded that yearly blanket NAFTA Certificates of Origin should be filed January 1 as appropriate. Necessary documentation supporting the claim(s) verifying origin costs, and including suppliers' certificates should be updated.

## WEB SITE

Where feasible, the *Briefings* newsletter on our web site contains direct links to the source documents referenced. It will expedite securing hard copies of necessary documents. New materials after publication are carried under "[What's New](#)" on our web site until the next *Briefings*. Clients are encouraged to bookmark our web site for current trade information.

## AERP/AES

- The Census Bureau's 30 year old Automated Export Reporting Program is scheduled for elimination January 1, 2000. Exporters will need to use the new Automated Export System or revert to submitting paper CF 7525s. AES has received the 1998 Government Technology Leadership Award.
- Customs has issued version 1 of the *Customs Proprietary Transportation Record Formats for AES*. The document explains the data necessary for AES use. [www.customs.ustreas.gov/download/aes/transp1.pdf](http://www.customs.ustreas.gov/download/aes/transp1.pdf)

## RECONCILIATION

Customs recently issued *Misconceptions about ACS Reconciliation Prototype* policies. Customs stated that ACS is not mandatory, and does not change current value laws. Importers may continue to utilize prior methods of making value adjustments to entry summaries, such as the use of prior disclosure. The document should be carefully considered. CEBB [T-ACS4.TXT](#) and [T-ACS5.TXT](#) (Jan. 5, 1999).

## "MADE IN USA" GUIDELINES

The FTC has published "Complying with the Made in the USA Standard." The Guide is intended to ensure that advertising and marketing claims that use the "Made in USA" label are truthful. It clarifies labeling and includes product examples and scenarios. While the best description to date, it includes questionable examples and still does not provide explicit guidance. Clients should review the document carefully. [www.ftc.gov/bcp/online/pubs/bu/pubs/madeusa.htm](http://www.ftc.gov/bcp/online/pubs/bu/pubs/madeusa.htm)

## FTZ PACKAGING MATERIAL

An effort was initiated by Customs in December to reverse a 1984 ruling involving certain packaging materials and FTZs. A Notice of Proposed Modification of Customs Ruling letters was published. 32 Cust. B. & Dec. 17 (Dec. 9, 1998). Details and a copy of the NAFTA response are available from the firm.

## FTZ HMT UPDATE

On behalf of BMW Manufacturing Corporation, a Motion and Supporting Brief for Partial Summary Judgement was filed. Copies are being sent to clients. Firms who have not yet joined the litigation should consider doing so by contacting Marshall Miller.

## WTO MEMBERS

The Kyrgyz Republic became the 133rd member of the World Trade Organization on Dec. 20, 1998. For a complete membership list see [wto.org/wto/about/organsn6.htm](http://wto.org/wto/about/organsn6.htm).

## DRAWBACK

- Manufacturing Drawback instructions to drawback field offices on the revised drawback regulations have been issued. The instructions include guidelines for who qualifies for drawback rulings; information required for, and how to submit drawback notification letters; Customs procedure for issuing rulings; procedures for modifications to drawback rulings; procedures for terminations of drawback rulings; how drawback rulings shall be published; and instances where drawback rulings shall remain in effect. CEBB [T-DRWBK5.TXT](#) (Dec. 7, 1998).
- A Revised Disk Format Data Layout for Floppy disk Submission of Drawback Claims has been issued. Processing results for claims will be formatted using the same standards used for submitting claims. Results will be written to the same set of diskettes as the user supplied. CEBB [T-ABIDR7.TXT](#) (Dec. 16, 1998).

## NAFTA DUTY DEFERRAL

The duty deferral program outlines requirements when goods are withdrawn from a U.S. duty-deferral program for exportation to another NAFTA country. Customs is seeking comments on whether information collection is needed; ways to increase quality, utility, and clarity of information collection; and ways to minimize the burden of information collection, including the use of information technology. This is a good opportunity for clients. Comments are due Feb. 22, 1999. [63 Fed. Reg. 71341 \(Dec. 24, 1998\)](#).

## ISRAEL MPF EXEMPTION

Customs issued a final rule effective December 28, 1998, (T.D. 99-1) exempting products of Israel from the MPF. This exemption is the result of a USTR finding that Israel provides reciprocal concessions. [63 Fed. Reg. 71371 \(Dec. 28, 1998\)](#).

## TEXTILE MIDs

Customs changed the Manufacturers identification Code (MID) requirements for textiles and apparel. The MID must be the actual (origin conferring) manufacturer of the goods, not the name of the trading partner or parent company (invoicing party). CEBB [T-TBT105.TXT](#) (Dec. 14, 1998).

## LBCIP

Customs issued final rule, T.D. 99-2, effective 30 days from January 4, 1999, to provide for the Land Border Carrier Initiative Program (LBCIP). It provides for agreements between land or rail carriers and Customs in which the carrier agrees to increase its security measures and cooperate more closely with Customs to prevent smugglers of illicit drugs from utilizing land conveyances for their contraband. [64 Fed. Reg. 27 \(Jan. 4, 1999\)](#).

## ENCRYPTION ITEMS

The Export Administration Regulations for export of encryption commodities and software to U.S. subsidiaries, insurance companies, health and medical end-users, on-line merchants and foreign commercial firms have been streamlined, effective December 31, 1998. [63 Fed. Reg. 72156 \(Dec. 31, 1998\)](#).

## CUSTOMS PRODUCT INFO

Customs issued a number of useful publications.

- *Knit-to-Shape Apparel Products and Textile* [CEBB KNIT\\_WP.EXE](#) (Jan. 6, 1999).
- *Textile & Apparel Rules of Origin: Index of Rulings*. [CEBB TEXWP.EXE](#) (Jan. 6, 1999).
- *NAFTA Eligibility and Building Stone* [CEBB NASTONWP.EXE](#) (Jan. 6, 1999).
- Gloves. [www.customs.ustreas.gov/imp-exp1/comply/icpframe.htm](#)
- Footwear. A package of compliance materials including a compliance guide and a footwear classification and value handbook are available from the firm.

## CHINA WOOD PACKINGS

- APHIS issued clarifying amendments to its interim rule covering transshipments through China and Hong Kong, modifications to ABI, and presentation of the certificate. [63 Fed. Reg. 69539 \(Dec. 17, 1998\)](#).
- APHIS issued a final rule amending the export certification regulations, effective February 8, 1999, to establish a program for accrediting non-government facilities to perform specific laboratory testing or phytosanitary inspection service. [64 Fed. Reg. 1098 \(Jan. 8, 1999\)](#).
- See also Customs and APHIS Web sites. [www.customs.ustreas.gov](#); [www.aphis.usda.gov](#).

## FTZ - PAPERLESS 7512

The long-established procedure in the North Central Region that allows the movement of FTZ material for export and other purposes without the use of a CF 7512 document is in jeopardy. As a result of a Congressional inquiry, Headquarters would like to include all zone movement activities in the QP Tin Man procedure. No final action is expected for some time.

## BANANA RETALIATION

The previous unilateral proposed U.S. action has moved within the auspices of the WTO. The WTO Dispute Settlement Body (DSB) will reconvene to determine the legality of the EU's new banana import regime. The US has announced that it will request imposition of 100% duties on a broad variety of EU products at the DSB's January 25 meeting; if authorized, the 100% duties will go into effect by March 2.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 1/15/99		
	APPROVED	PENDING
ZONES	228	6
SUBZONES	402	26
MISCELLANEOUS		35
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	13	
SUBZONES	10	