

INTERNATIONAL BUSINESS NEWS – MARCH 2007

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CUSTOMS & BORDER PROTECTION GRANTS GRACE PERIOD FOR HARMONIZED TARIFF SCHEDULE 2007 COMPLIANCE[®]

**From the March 2007 Edition of IOMA's
"Managing Imports & Exports"
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Although the Harmonized Tariff Schedule of the United States (HTSUS) is updated every five years to reflect evolving trade realities-including technological changes and shifts in global trade patterns-this year's changes are the most sweeping ever, affecting 83 of the 97 chapters of the HTSUS and covering 240 headings.

This makes implementing and complying with HTS 2007 one of the big challenges facing import-export pros today.

To add to the challenge, Customs & Border Protection (CBP) has issued little in the way of instructions or guidance regarding the transition period-or announced a public outreach program of informed compliance to aid importers and exporters in meeting their "reasonable care" obligations.

February 3 Version

A Dec. 29, 2006 proclamation signed by President Bush finally answered trade pros' urgent questions regarding the deadline for completing their reclassifications. The proclamation-published in the January 4 edition of the Federal Register-also updates certain designations for specific countries under trade-preference programs and implements scheduled tariff changes required under various free trade agreements (see www.usitc.gov/tata/hts for the most recent version of the HTS).

The final version, posted on Feb. 3, 2007, superseded the preliminary version, in effect as of January 1, 2007. For the first time, both provided for changes at the 10-digit level. However, only the February 3 final version contains tariff legislation passed by Congress and amendments to the Harmonized System recommended by the World Customs Organization.

CBP 'Grace Period'

At its Dec. 15,2006 Trade Symposium, CBP announced that the U.S. International Trade Commission (USITC) and the U. S. Trade Representative (USTR) had determined that the statutory Congressional layover period for adoption of the 2007 HTS would be signed and published in the Federal Register shortly-and that the 2007 HTS will not be effective until at least 30 days after the proclamation is published (rather than the normal 15 days).

This more "relaxed" time frame-won by trade groups through hard lobbying-recognizes that importers and exporters need the extra time to convert their systems and databases over to the new HTS. On top of that, CBP has announced it will allow an additional 15-day grace period for compliance-in other words, a total of 45 days.

This grace period will only prevent penalties or liquidated damages from being issued if timely filed entries are returned because they use the incorrect tariff classification due to the changeover.

What Has Changed?

This revision of the Harmonized System includes no less than 354 sets of amendments, responding mainly to:

- technological progress (see especially chapters 84, 85, and 90);
- altered global trade patterns;
- clarification of texts to ensure uniform application;
- adaptation of the HS nomenclature to reflect current trade practice;
- social and environmental standards (i.e., Rotterdam convention, Montreal protocol).

Import-export pros should note that in certain cases, six-digit code numbers have been renumbered even though the scope of the subheading remained the same. In other cases, certain subheadings may have been significantly modified in the scope but have retained the same code number.

SECURITY FILINGS FAQS

Customs and Border Protection has been working closely with the COAC subcommittee in formulating the proposed Security Filing (SF), which will require 10 additional data elements from importers 24 hours prior to foreign lading and 2 data sets from ocean carriers. CBP is currently developing a Notice of Proposed Rulemaking (NPRM), which will be published in the Federal Register along with a request for comments on the NPRM. CBP is hopeful that this Frequently Asked Questions (FAQ) document will assist the Trade Community in understanding the expectations of CBP concerning the proposed Security Filing requirements. For more information go to http://www.cbp.gov/xp/cgov/import/carriers/security_filing_faq.xml

WORK PERMITS FOR TEMPORARY FOREIGN WORKERS IN CANADA

Canada's work permit procedures facilitate the temporary entry of skilled foreign workers as well as professionals, traders, investors and intra-company transferees within the North American Free Trade Agreement (NAFTA). These re-codified procedures offer opportunities to U.S. companies interested in expanding into Canada, performing contracts in Canada or establishing strategic partnerships with Canadian companies to employ their key workers in Canada on a temporary basis. U.S. companies contemplating bidding on Canadian procurement contracts or discussing strategic partnerships with Canadian companies should be aware of the opportunities that the work permit procedures offer to facilitate entry of their employees into Canada. This six-page report contains the latest available information (as of Dec. 31, 2006) and is complete with the best web links to assist the reader in navigating Canada's policies and application procedures. To obtain the complete report contact:

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VENEZUELA CHANGES IN STANDARDS, IMPORT REGULATIONS AND VALUE ADDED TAX

Standards

Venezuela's standards regime and organization has undergone several organizational and legal changes over the last few years. It now consists of two organizations of which one is a private non-profit foundation and the other one is part of the Ministry of Commerce and Industry. Certifications, conformity certificates, testing, adherence to international practices and norms are now common and even the use of foreign standards instead of Venezuelan ones of obligatory compliance is now possible and accepted for imported products. For an article on these changes, please go to <http://www.buyusa.gov/alabama/venstandard.pdf>

Import Regulation Changes

President Chavez announced two new regulations which will effect not only the costs for a great number of imported products but in many cases also will require the use of a government-established list of products for which foreign exchange will be allowed. The first, and apparently most important, announcement, covers over 200 items of the Venezuelan customs tariff and stipulates an increase of 15% over the existing customs duty schedule. These items are claimed to be "non-priority" or non-essential products, which include so-called "luxury" goods. The list is not yet available, as stated above, but according to the president's statements includes whiskey, other alcoholic beverages, tobacco products, sailing boats, clothing, razors, furniture, toilet paper and many others not mentioned. For more information go to <http://www.buyusa.gov/alabama/venimport.pdf>

Value Added Tax

According to the Official Gazette No 38.625 dated February 13 and scheduled to go into effect on February 15, 2007, Venezuela's internal revenue service SENIAT announced the elimination of the value added tax (VAT) for a list of products (mostly foods), services and equipment. SENIAT stated that this measure is part of President Chavez' policy to combat rising prices. Twenty basic food products and their raw materials lead the list. These are followed by fifteen groups of industrial products, many of which are imported, and specific services to the public. The economic effects should be lower final prices and increased demand for the listed items and services. For details go to <http://www.buyusa.gov/alabama/venvat.pdf>

**INTERNATIONAL INTELLECTUAL
PROPERTY ALLIANCE**

International Intellectual Property Alliance (IIPA) is a private sector coalition that represents the U.S. copyright-based industries in bilateral and multilateral efforts to improve international protection of copyrighted materials. IIPA is comprised of seven trade associations. The member associations represent 1,900 U.S. companies producing and distributing materials protected by copyright laws throughout the world.

The U.S. copyright-based industries are one of the fastest-growing and most dynamic sectors of the U.S. economy. However, inexpensive and accessible reproduction technologies make it easy for copyrighted materials to be pirated in other countries. IIPA's and its member associates goal is a legal and enforcement regime for copyright that not only deters piracy, but that also fosters technological and cultural development in 80 countries, and encourages local investment and employment.

IIPA works closely with the U.S. Trade Representative in the annual "Special 301" reviews on whether acts, policies or practices of any foreign country deny adequate and effective protection of intellectual property rights or fair and equitable market access for U.S. persons relying on intellectual property protection.

As technology rapidly changes, IIPA is working to ensure that high levels of copyright protection become a central component in the legal framework for the growth of global electronic commerce. Strong legal protections against the theft of intellectual property are essential for achieving the full economic and social potential of global e-commerce. To advance this goal, IIPA is working for the prompt ratification and effective implementation of the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty in as many countries as possible.

For details on the International Intellectual Property Alliance 2007 Special 301 Report, go to http://www.iipa.com/2007_SPEC301_TOC.htm

ASK THE EXPERTS®

by Alan Gaudio , Robert Imbriani and Joseph Zodi
Consultants for UNZ & Co.
March 2007 "Managing Imports & Exports"
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Question from Import-Export Manager:

We ship domestically FOB Origin where our customer's selected trucking company is responsible for the goods from our warehouse door onward, at our customer's expense. Our foreign customer says FOB Origin means that we have to take the goods to a seaport, arrange export clearance, and then ship freight collect via their carrier. Which is correct?

Answer from Joseph Zodi:

Both usages are correct in different settings. There are two principal different forms of "terms of sale" that are negotiated between the seller and the buyer. In the United States, we use the Uniform Commercial Code (UCC), while Incoterms 2000, published by the International Chamber of Commerce, contains the 13 almost universally used international terms of sale. Within the United States, we generally use either of the two following combinations:

	<u>Seller</u>	<u>Buyer</u>
FOB Origin	has goods ready for shipment, loads carrier, completes documentation (bill of lading.)	Names carrier, pays freight, owns goods while in transit. Files any loss or damage claim with carrier.
FOB Destination	As above, and names carrier, pays freight, owns goods While in transit. files any loss or damage claim with carrier and replaces goods to buyer.	Accepts goods when tendered for delivery by by carrier.

Not only does UCC exist only within the United States, but for import/export transactions, there are the added complications of export compliance (declarations, licensing) and import clearance (entry filing, duties). As UCC doesn't contemplate these two elements, it is impossible to use UCC correctly for an international transaction.

A common misunderstanding arises between Americans and those in other countries in regard to the use of the term "FOB"-because it has different meanings under the two systems. Under Incoterms,

only FOB Origin is used (never FOB Destination), and is properly used only for water shipments (never truck, rail, or air). Here is a brief summary of Incoterms 2000 usage:

Seller		Buyer
FOB Origin	Transports goods to seaport; arranges export compliance; arranges for loading of vessel; delivers goods when they cross the ship's rail.	Names carrier, pays freight, arranges import Clearance, accepts goods when they cross ship's rail of seaport. Files any loss or Damage claim with carrier

In contrast to UCC, Incoterms does not govern passage of title but does govern delivery of the goods. Many sellers and buyers close this gap by agreeing "title passes when goods are delivered."

Here, as with the domestic usage, the term can be expressed as "FOB Seaport Los Angeles" or similar usage, but it must be at the point of origin.

Confusion may erupt when the U.S. seller is focused on the UCC (domestic) definitions and the foreign buyer is focused on Incoterms 2000 (international) definitions. In the end, we have two different interpretations of when the goods are delivered: 1) at the seller's door and 2) at the seaport of export. In addition, the buyer is expecting the seller to undertake export compliance, which the seller may not have contemplated.

Many company catalogs and Web sites indicate "FOB Origin," "FOB Oakland, California," or some other usage, meaning UCC, often with prices. It's best to include a disclaimer such as: "International orders subject to Incoterms 2000. Contact us for more information." This will help eliminate confusion right from the beginning.

UPCOMING EVENTS:

**Gulf States World Trade Conference 2007:
Japan, Korea & Taiwan
April 2-3 - Grand Hotel, Point Clear, Alabama**

Featuring Israel Hernandez
Assistant Secretary of Commerce
Website link

<http://www.naita.org/docs/wtcmobile07.pdf>

**NAITA WORLD TRADE DAY 2007
April 12 Von Braun Center, Huntsville, AL**

Featuring BG Clinton T. Anderson,
Commanding General,
U.S. Army Security Assistance Command (USASAC)
Website link - <http://www.naita.org/docs/wtd2007.pdf>

ASIA PACIFIC BUSINESS OUTLOOK CONFERENCE

**University of Southern California
March 26-27, 2007 - Los Angeles, CA.
Early registration extended to March 9. For
information [click here](#).**

**Clean-Energy Technologies Trade Mission to
India and China, April 18-25, 2007.
(Recruitment ends March 19)**

This timely mission, to be led by Assistant Secretary for Market Access and Compliance David Bohigian, was developed to advance the objectives of the Asia-Pacific Partnership on Clean Development and Climate, a Presidential initiative to reduce carbon dioxide emissions in the context of sustained economic growth.

The mission will visit New Delhi and Chennai April 18-20, 2007, and Beijing and Nanjing April 23-25, 2007.

For details and to pre-register go to:
<http://www.export.gov/cleanenergymission>

If you have questions please contact Frank Caliva
202-482-8245 or via email at
cleanenergymission@mail.doc.gov.

COMMERCIAL NEWS USA

CNUSA is the official export promotion magazine of the U.S. Department of Commerce. It is distributed directly to overseas buyers, representatives and other appropriate parties.

Industries Featured in the May-June 2007 Edition

- Business Services
- Hotel/Restaurant/Food Processing
- Information Technology
- International Education

Registration Deadlines for the May-June Edition are:

Space: March 9, 2007
Materials: March 16, 2007

Contact CNUSA at 1-800-581-8533
or E-mail: cnusa@thinkglobal.us,
Website <http://www.export.gov/cnusa>

**We hope you've enjoyed this edition of our newsletter.
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