



Parker & Company Worldwide

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ACE updates

A2.3.1.a deployment - Effective February 7, 2010, U.S. Customs and Border Protection will be deploying enhanced ACE capabilities within the Entry Summary, Account and Revenue release. The A2.3.1a release will provide new Portal and EDI capabilities specific to the filing and processing of AD/CVD entries (also known as type 03 entries) and AD/CVD Case Management. Improvements to portal navigation will impact ALL ACE accounts. Please refer to the attached information notice for a summary of all portal and EDI changes.

In response to requests from the trade community, CBP is now posting a spreadsheet of Open ACE Programming Issues to our website at: <http://www.cbp.gov/xp/cgov/trade/automated/modernization/> , Click on Open ACE Programming Issues. This link will be updated frequently to keep the issues and their statuses current.

Brazil Reveals U.S. Goods to be Subject to Higher Duties Beginning April 7

The Brazilian government announced March 8 a final list (see attached) of 102 goods that, when originating in the U.S., will be subject to increased import duties of 14-100% beginning April 7. Brazil is imposing these tariffs in retaliation for the United States' failure to comply with a World Trade Organization ruling against its subsidies for cotton producers and exporters.

A press release from the Brazilian government states that the list "corresponds" to a retaliation amount of \$591 million. The remaining amount of retaliation to which Brazil claims it is entitled, \$238 million, will be applied in the sectors of intellectual property and services. Those measures are expected to be discussed by government officials March 23. According to Brazil, both types of countermeasures may remain in effect as long as the U.S. does not comply with the WTO ruling.

The press release states that Brazil "regrets having to take these measures, since it believes that trade retaliation does not constitute the most appropriate means to attain international trade on a fairer basis." While the U.S. has yet to offer "concrete and realistic options that could allow for the negotiation of a satisfactory solution to the dispute," Brazil states that it "remains open to a dialogue with the United States that may facilitate the achievement of a mutually satisfactory solution."

DOT Narrows List of Hazardous Materials Requiring Transportation Security Plan

The Department of Transportation's Pipeline and Hazardous Materials Safety Administration has issued a final rule that narrows the list of hazardous materials whose commercial transportation by air, rail, vessel or highway requires the development and implementation of a security plan. This rule also clarifies certain requirements related to security planning, training and documentation. The security plan requirements in Subpart I of Part 172 of the HMR apply to persons who offer for Transportation or transport:

- 1) A highway-route controlled quantity of a Class 7 (radioactive) material;
 - 2) More than 25 kg (55 lbs.) of a Division 1.1, 1.2, or 1.3 (explosive) material;
 - 3) More than 1 L (1.06 qt.) per package of a material poisonous by inhalation in Hazard Zone A;
 - 4) A shipment in a bulk packaging with a capacity equal to or greater than 13,248 L (3,500 gallons) for liquids or gases or greater than 13.24 cubic meters (468 cubic feet) for solids;
 - 5) A shipment in other than a bulk packaging of 2,268 kg (5,000 lbs.) gross weight or more of one class of hazardous materials for which placarding is required;
 - 6) A select agent or toxin regulated by the Centers for Disease Control and Prevention under 42 CFR Part 73 or a select agent or toxin regulated by the U.S. Department of Agriculture under 9 CFR Part 121; or
 - 7) A shipment that requires placarding under Subpart F of Part 172 of the HMR.
- A security plan must include an assessment of possible transportation security risks and appropriate measures to address the assessed risks. Specific measures

100% Air Cargo Screening Starting August 3rd, 2010, 100% of all air cargo on passenger aircraft must be screened prior to boarding. The air cargo industry has already met the 50% screening requirement by the previous Feb 3, 2009 deadline. Screening responsibilities are being directed back at IAC's and freight forwarders to help ease congestion at the airlines. Delays are being forecasted by the airlines once the 100% screening requirement comes into effect.

Panama Canal Expansion – The Panama Canal expansion slated for completion in 2014 will bring a shift in Pacific Rim trade from the West Coast of the US to the Gulf Coast. The expansion will allow for Post Panamax Vessels 10,000 TEUs and above to traverse the canal into the Caribbean and the Gulf. Currently these vessels most transload containers to smaller 6,000 TEU vessels increasing cost of transport through the canal and travel time. With the expansion the South Texas Port of Brownsville has the opportunity to position itself for this key shift in trade. The shift will offer South Texas and Northern Mexico manufacturing facilities to receive their raw materials at a lower cost and in shorter period of time than is currently the route over the west coast of the US

EU Report Blasts 100 Percent Scanning Requirement for Ocean containers The European Commission (EC) issued a working paper this month that blasts a U.S. statute that requires all foreign cargo containers shipped to the United States (except U.S. and foreign military cargo) to be scanned by non-intrusive imaging equipment and radiation detection equipment at the foreign port before being loaded on a U.S.-bound vessel by July 1, 2012.

New air cargo security regulations from our Agent Skyline Germany - Shippers, forwarders and airlines remain in confusion over a new EU air cargo security regime due to be implemented next month. EU Framework Regulation 300/2008, which comes into force on 29 April and replaces Aviation Security Regulation 2320/2002, is designed to take loopholes out of the system and make it easier for operators in Europe to comply with a strengthened US regime scheduled to come into play in August. It incorporates three new elements:

1. Independent validation of known consignors
2. a mandatory EU cargo database embracing known and unknown or unaccredited consignors
3. and a distinction between direct and transit cargo.

The new regime is designed to ensure that each member state recognizes known consignors and regulated agents in the rest of the community, although Eckard Seebohm, head of the European Commission's aviation security unit, said he expected the number of known consignors to fall sharply after 29 April, with many smaller consignors simply not bothering.

Harald Zielinski, head of security and environmental management at Lufthansa Cargo, said it was still unclear how much the new known consignor accreditation would cost shippers and expressed concern about what would happen if 20,000 of Germany's 50-60,000 consignors decided they could not afford it.

A representative of Volkswagen said it was not just smaller shippers, but even large manufacturers, who would question if they should bother seeking authorized status.

"Everything we do, except some vehicles we manufacture for the domestic market, is theoretically air freight," he said.

Jürgen Knipfer, supply chain manager at Siemens, said: "I believe in taking supply chain security very seriously, but certified consignor status will increase our costs drastically. Do all 80 of my locations have to be certified every five years?"

"What will be the impact on air freight delivery times? And what is the additional cost?"

Those doubting the industry's ability to secure the full supply chain claimed centralized screening would have to be carried out at or near airports, but Seebohm warned of major potential bottlenecks.

Seebohm said the EC was concluding that a three-year transition period was needed to allow systems to be introduced that would eliminate pinch points at airports.

Effective April 29th, every shipper that is not a "known shipper" to Skyline Express nor mentioned in the EU-Database (will be available from June 2010) will be classified as an "unknown consignor".

As for air cargo coming from an "unknown consignor", screening of those air cargoes is required to be carried out by the regulated agent or air carrier before loading into the aircraft.

Foreign Trade Regulations (FTR): Eliminate the Social Security Number (SSN) as

an identification number in the Automated Export System (AES) The U.S. Census Bureau (Census Bureau) issues this final rule amending the Foreign Trade Regulations (FTR) to eliminate the requirement to report a Social Security Number (SSN) as an identification number when registering to file and filing electronic export information in the Automated Export System (AES) or AESDirect. If the U.S. Principal Party in Interest (USPPI) or the U.S. authorized agent residing in or having an office in the United States does not have an Employer Identification Number (EIN), the USPPI or the U.S. authorized agent must obtain an EIN through the Web site of the Internal Revenue Service (IRS). Former SSN filers who want to use a Dun & Bradstreet Number (DUNS) rather than an EIN for identification purposes, must first obtain an EIN from the IRS, and apply to Dun & Bradstreet for a DUNS. This final rule is being implemented to ensure that a USPPI's or authorized agent's SSN is protected in 2 accordance with the Privacy Act of 1974 (Privacy Act), title 5, United States Code (U.S.C.), section 552a. On August 5, 2009, this final rule was published as an interim final rule; the Census Bureau is finalizing this rule without change.

U.S. Customs and Border Protection has announced that it is providing a one-year grace period for the PAIRED entry program, so that it will continue to be available to filers through January 28, 2011 (from January 29, 2010). CBP recently issued a final rule that amended 19 CFR to make remote location filing permanent and eliminate the PAIRED entry program, effective January 29, 2010. However, due to limitations with the RLF program, CBP is providing this one-year grace period. on the final rule. Parker & Company can provide remote location filing to our customers throughout the US.

CMA CGM Resumes Normal Haiti Calls February 22nd, 2010

CMA CGM, which has been heavily involved in relief efforts in Haiti since the earthquake devastated the country on Jan. 12, said it has resumed a regular service between Port-au-Prince and Kingston in Jamaica.

A 516-container CMA CGM feeder vessel called at Port-au-Prince on Feb. 7 as an extension of its Europe-Caribbean Service. A second call was made on Feb. 15 thanks to the 400-foot long floating dock that has recently been installed at the Haiti Terminal. On Feb. 11 CMA CGM was also back in business with the reopening of the Vital Agency, its Port-au-Prince representative.

This regular service via Kingston, a major Caribbean transshipment hub, offers an alternative solution for all commodities coming from and going to Port-au-Prince. It represents a first step towards CMA CGM resuming its regular direct service from North Europe to Haiti, as soon as the situation permits.

FDA Launches Transparency Initiative with FDA Basics

Inaugurating the first phase of its Transparency Initiative, the FDA has launched a web-based resource called [FDA Basics](#) that provides information about the agency and how it does its work.

The *FDA Basics* resource includes:

- Questions and answers about the agency and the products that the agency regulates
- Short videos that explain various agency activities
- Conversations with agency personnel about the work of their Office

In addition, different Centers and Offices in the agency will host online sessions where the public can learn more about a topic and ask questions to senior FDA officials about these topics.

The FDA's Transparency Task Force is developing its recommendations for the Transparency Initiative in three phases. Phase one is completed with launch of *FDA Basics*. Phase two will address how to make information about agency activities more transparent, useful, and understandable to the public, in a manner compatible with the agency's goal of protecting confidential information, as appropriate. In the final phase, the Task Force will cover FDA's transparency to regulated industries.

Parker & Company employee training: Congratulations to Lydia Rodriguez, Parker & Company Laredo, for Passing the Certified Customs Specialist Exam and becoming (CCS) In addition Jorge Garcia is Certified in Laredo. In addition the following are also CCS certified: Marta Cervantes Pharr office, Frank Parker, David O'Leary, officers of the corporation, and Steve Muschenheim, Abel Medina from the Brownsville office. Also recently various employees in all offices underwent HAZMAT recertifications for warehouse handling and shipping documentation Congratulations!

CBP Establishes Alternative for Electronic HMF Payments, Refund Requests U.S. Customs and Border Protection has issued a final rule that, effective Dec. 24, will establish an alternative procedure by which payers of the quarterly harbor maintenance fee may submit payments or refund requests electronically via an Internet account established by the payer. CBP will, however, continue to accept quarterly HMF payments or refund requests via mail. According to CBP, this change is intended to provide the trade community with expanded electronic payment/refund options and to modernize and enhance CBP's port use fee collection efforts.

This rule also clarifies that both HMF supplemental payments and refund requests must be accompanied by the requisite CBP Form 350 (HMF Amended Quarterly Summary Report) and CBP Form 349 (HMF Quarterly Summary Report). CBP states that this clarification is necessary to remove any ambiguity as to what forms are required in conjunction with such payments.

New CBP Factsheet on 10+2 filings available for down load from Customs Web site

http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/carriers/security_filing/10_2faq.ctt/10_2faq.doc

Update on 10+2 Bond-Related Issues

What about Liquidated Damages?

During the flexible enforcement period, CBP has announced they will not assess liquidated damages.

In the July 17, 2009, Customs Bulletin and Decision, CBP published [CBP Decision 09- 26](#) (see pages 29-41) advising the trade on its guidelines for assessing and cancelling liquidated damages for the 10+2 obligations. A summary of the ISF portion is below, and we encourage everyone to review the full notice.

Violation	Consequences
Failure to file complete, accurate, and timely ISF.	CBP shall withhold release or transfer of cargo until ISF is received. CBP may limit the permit to unlade so that cargo is not unladen, and may seize cargo that has been unladen without permission.
Filing an inaccurate update 19 CFR 149.2(d).	Assess liquidated damages against the bond for \$5,000 for the first inaccurate update.
Failing to withdraw a filed ISF 19 CFR 149.2(e).	Assess liquidated damages against the bond for \$5,000.
Filing an untimely ISF.	Assess liquidated damages against the bond for \$5,000 per late ISF.
Filing an incomplete or inaccurate ISF.	Assess liquidated damages against the bond for \$5,000 per incomplete or inaccurate ISF.

Mitigation:

- When law enforcement goals are compromised, there is no relief.

- **First Offense:** pay between \$1,000 and \$2,000, based on mitigating or aggravating factors.
- **Subsequent Offense:** Pay not less than \$2,500, based on mitigating or aggravating factors.
- Certified Tier 2 or 3 C-TPAT participants can get up to an additional 50% reduction of the above amounts.
- See CBP Decision 09-26 for full details of mitigating and aggravating factors.

As always, Roanoke Trade is working closely with CBP and our valued clients in order to achieve the best solution for all interested parties. We will advise you of any information we learn as it becomes available.

CUSTOMS AND BORDER PROTECTION PROPOSES TO ELIMINATE MAILING OF

COURTESY NOTICES OF LIQUIDATION by: Edward B. Ackerman (eackerman@gdlsk.com), Customs and Border Protection ("CBP") published a notice in the Federal Register on March 16, 2010, proposing to end its practice of mailing out courtesy notices of liquidation to importers of record. Comments regarding this proposal may be filed on or before May 15, 2010.

The courtesy notice has historically been relied upon by importers for notification of liquidation, an event which triggers important legal rights and obligations. Date of liquidation marks the commencement of the 90-day period for CBP to re-liquidate an entry and the 180-day protest period for importers to file claims for duty refunds (importers may utilize the protest procedure, prior to the 180th day after liquidation, to challenge CBP's position that entry be made in a particular manner with which the importer disagrees, as well as under circumstances where the importer acquires facts/legal theories supporting a claim for duty refund after the date of entry).

In the Notice, CBP justifies its proposal as a cost saving measure by noting that it currently provides most importers of record with two notices of liquidation-- a paper courtesy notice is sent to the importer and an electronic notice of liquidation is sent to the "entry filer" in the ABI ("Automated Broker Interface" System). CBP proposes to continue providing electronic notification to the ABI filer. Where the importer files its own electronic entry it will receive a liquidation notice, but in other cases (i.e., where the services of a Customs broker are utilized), which account for the majority of entries, the notice will only go to the Customs broker who filed the entry.

Parker & Company will begin using the new customs form 7501 effective March 23rd, 2010

NCBFAA Wins Tariff Exemption In what FMC Chairman Lidinsky called, "one of the most significant Commission actions since Congress passed the Shipping Act in 1984," the FMC Commissioners voted to grant the petition filed by the NCBFAA to exempt NVOCCs from the costs and burdens of continuing to publish rate tariffs. The exemption will not take place immediately, as the Commission voted to initiate a rulemaking in which it would promulgate a regulation implementing the significant relief granted to NVOCCs. However, the Commissioners pledged that the Commission would expedite the necessary rulemaking proceeding to implement this as soon as possible. The exemption sought by the NCBFAA, and approved by the FMC, had the following parameters:

- The exemption is voluntary, so that NVOCCs may choose whether they wish to utilize the exemption.
- The exemption is limited to rates, so that rules tariffs are still required.
- The exemption would technically excuse NVOCCs from having to either publish rate tariffs or adhere to the rate tariffs that are published.
- Any NVOCC utilizing the exemption would need to publish a notice in its rules tariff that it has chosen to operate under the exemption.
- Public access to the NVOCC's rules tariff must be granted free of charge.
- The unpublished, negotiated rates must be agreed to and memorialized in writing in a clear way in which there is no confusion about the applicable rate.
- The negotiated rate documentation must include "prominent notice of the existence and location of the rules tariff."
- The documentation memorializing the rates must be retained for five years and made available for public inspection.

ALERT - Phase IV - Lacey Act Declaration Implementation Begins April 1, 2010-Pursuant to revisions of the Lacey Act (16 U.S.C. § 3371), any person importing any plant or plant product must file a declaration upon importation that contains (1) the scientific name (i.e., genus and species) of the live plant or the plant from which the product was derived; (2) the plant species country of origin; and (3) a description of the value of the importation and quantity (including the unit of measure) of the plant/plant product. The declaration requirement is being overseen by the Animal and Plant Health Inspection Service (APHIS). The declaration requirement has been implemented in a phased-in approach on a product specific basis. Phase IV will be implemented on **April 1, 2010**. The scope of goods encompassed by Phase IV has been significantly revised, resulting in the complete elimination of certain HTS chapters (e.g., Ch. 48), as well as the inclusion of additional chapters previously not covered by the declaration requirement. Phase IV: See attached link for all details on Lacey act and phased in implementation and tariffs affected: http://www.aphis.usda.gov/plant_health/lacey_act/Q&As.shtml

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