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CBP Posts Four Textile & Apparel ICPs — By Broker Power, Inc.

U.S. Customs and Border Protection has posted four textile and apparel informed compliance publications that were reviewed in May 2008 with no change.

The following are highlights of the ICPs:

NAFTA for textiles and textile articles. Topics such as determining NAFTA benefits, NAFTA rules of origin, basic steps in textile production, marking rules for textile and apparel products, the benefits of Mexican Special Regime, tariff preference levels (TPLs), and NAFTA certificates of origin are covered in this ICP.

(This ICP was previously revised in July 2006. See *ITT's Online Archives* or 07/24/06 news, (Ref: [06072425](#)), for BP summary.)

Marking requirements for wearing apparel. This ICP covers, among other things, country of origin marking for apparel (e.g., general requirements, determining country of origin, special marking rulings, etc.) and the Textile Fiber Identification Act and the Wool Products Labeling Act – which require certain information, in English, be included for marking or labeling purposes.

(This ICP was previously revised in July 2006. See *ITT's Online Archives* or 07/14/06 news, (Ref: [06071425](#)), for BP summary.)

Gloves, mittens & mitts, not knitted or crocheted, under the HTS. The classification of imported gloves, mitten and mitts, not knitted or crocheted under the Harmonized Tariff Schedule (HTS) is covered in this ICP, as well as definitions for terms used in the tariff and glove trade, HTS heading 6216, glove marking requirements (e.g., country of origin, etc.), importer's responsibilities, etc.

(This ICP was previously revised in July 2006. See *ITT's Online Archives* or 08/15/06 news, (Ref: [06081520](#)), for BP summary.)

Classification of "Note 6" knit to shape garments under HTS heading 6110. This ICP provides information on the exclusion from quota for certain Chinese-origin knit to shape garments; a summary of HTS Chapter 61, Statistical Note 6 requirements; a comparison chart – Chapter 61, Statistical Note 6 vs. 19 CFR 102.21; a list of frequently asked questions, etc.



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ICPs Provided for Informational Purposes Only

CBP states that the information provided in these publications is for general information purposes only. CBP cautions that because many complicated factors can be involved in customs issues, an importer may wish to obtain a ruling under CBP Regulations, 19 CFR Part 177, or obtain advice from an expert (such as a licensed Customs Broker, attorney or consultant) who specializes in customs matters. Reliance solely on the general information in these ICPs may not be considered reasonable care.

Reviewed ICPs (May 2008) and all other ICPs available at

http://www.cbp.gov/xp/cgov/trade/legal/informed_compliance_pubs/

High Security Bolt Seals to Be Required on Inbound Containers from October 15, 2008 - Meeks, Sheppard, Leo & Pillsbury

Effective October 15, 2008, U.S. Customs will require that all freight containers in transit to the U.S. by ship, rail or truck have bolt seals that meet the ISO PAS 17712 standard.

This mandate is pursuant to the 2007 amendment to the Safe Port Act, which required this step if DHS and CBP did not issue an interim final rule on minimum container security standards by April 1, 2008. Since an interim rule was not issued by that date, the language of the 2007 Safe Ports Act amendment provides as follows:

- (i) effective not later than October 15, 2008, all containers in transit to the United States shall be required to meet the requirements of International Organization for Standardization Publicly Available Specification 17712 standard for sealing containers.

Customs is likely to provide for exceptions to the bolt seals requirements for containers which cannot accommodate seals (e.g., tanks, open-topped containers), and Customs has indicated that air shipments are not intended to be included in the mandate. The main impact of this new requirement will be on importers who are not C-TPAT certified, since C-TPAT importers must currently use seals which meet or exceed the current ISO PAS 17712 standard.

Customs is expected to issue a June 2008 notice to the trade regarding these requirements but Customs did not indicate whether comments will be accepted.



Port of Los Angeles Approves Clean Truck Concession Agreement (Includes Employee Driver Transition Plan) By Broker Power, Inc.

On May 15, 2008, the Los Angeles Harbor Commission approved the Clean Truck Program (CTP) Drayage Services Concession Agreement, which paves the way for the Port of Los Angeles to begin the transition to a Licensed Motor Carrier-based truck concession program beginning October 1, 2008.

(LA Port sources note that this agreement builds on the CTP that was approved by the Commission on March 20, 2008.)

Highlights of the Concession Agreement

According to a fact sheet on the Concession Agreement, the Port of LA will grant five year renewable concessions to Licensed Motor Carriers (LMCs) who (*partial list*):

- Provide a plan to complete a phased transition to have 100% of their contracted drayage moves handled by employee drivers within 5 years (see below for transition schedule)
- Pay a one-time application fee of \$2,500 and fees of \$100 per truck annually
- Use trucks for drayage that meet US EPA 2007 heavy duty truck emission standards
- Register their drivers and trucks with the Port’s Drayage Truck Registry database
- Ensure compliance with all applicable security regulations, including Homeland Security requirements and use of drivers that have enrolled in the federal Transportation Worker Identification Credential (TWIC) program
- Agree to use First Source Hiring Program which gives preference to local drivers, and those with previous drayage service at the Ports
- Agree to affix vehicles with radio-frequency identification devices (RFID) and affix 1-800 placards
- Agree to incorporate future efficiency and technology advances (e.g. virtual container yard)

Employee Driver Transition Schedule

The employee driver concession includes the following transition period schedule:

<u>Implementation Date (annual average over 12 months measured on below dates)</u>	<u>% of Concession Drivers that are Employees (annual average percentage)</u>
December 31, 2008	0%
December 31, 2009	20%

December 31, 2010	66%
December 31, 2011	85%
December 31, 2012	95%
December 31, 2013	100%

See the Port of LA's fact sheet for additional information on truck funding, the Clean Truck Fee, cargo fee exemptions, the scrap truck buyback program, etc.

(See ITT's Online Archives or 03/24/08 news, (Ref: [08032405](#)), for BP summary of the Port of LA approval of the CTP, including the truck concession component.

See ITT's Online Archives or 12/21/07 news, (Ref: [07122105](#)), for BP summary of LA/LB approving the Clean Trucks fee. See ITT's Online Archives or 01/16/08 news, (Ref: [08011605](#)), for BP summary of LA/LB approval of the infrastructure cargo fee.)

Fact sheet on Concession Agreement (dated 05/15/08) available at http://www.portoflosangeles.org/CAAP/CTP_Fact_Sheet.pdf

Press release on the CT Drayage Services Concession Agreement (dated 05/15/08) available at http://www.portoflosangeles.org/News/2008/news_051508ctp.pdf

Additional CTP information (fact sheets, FAQs, etc.) available at <http://www.portoflosangeles.org/environment/ctp.asp>

BP Notes - The Federal Maritime Commission has held closed meetings on the Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement (No. 201178), which would allow terminal operators to assist or cooperate in the administration of the LA/LB CTP. (See ITT's Online Archives or 05/06/08 news, (Ref: [08050605](#)), for most recent BP summary.)

In addition, the Pacific Coast Council of Customs Brokers and Freight Forwarders Association met with the FMC on May 19, 2008 on such issues as equipment shortages in the export trades and marine terminal issues. (FMC release, dated 05/21/08, available at

http://www.fmc.gov/speeches/newsrelease.asp?SPEECH_ID=245)



China's Agreed Textile and Apparel Quotas to End on December 31, 2008, Etc. - By Broker Power, Inc.

According to sources at the Committee for the Implementation of Textile Agreements, the agreed quotas imposed on certain China-origin textile and apparel pursuant to the 2006 U.S.-China textile agreement will end on December 31, 2008.

In addition, any overshipments that are exported in 2008 are likely to be subject to staged entry in 2009, according to CITA sources. (China's agreed quotas affect textiles and apparel in categories 200/301, 222, 332/432/632T (plus baby socks), (332/432/632B (plus baby socks), 338/339pt, 340/640, 345/645/646, 347/348, 349/649, 352/652, 359S/659S, 363, 443, 447, 619, 620, 638/639pt, 647/648pt, 666pt, and 847.)

WTO ‘China Textile Safeguard’ Also Ends on December 31, 2008

The China textile safeguard allows World Trade Organization member countries to impose limits on Chinese-origin textile and apparel imports due to market disruption; however, this safeguard also terminates on December 31, 2008.

WTO ‘China Product-Specific Safeguard’ in Effect Until December 11, 2013

The China product-specific safeguard, which may be used by WTO member countries for any Chinese-origin product, including textiles and apparel, is in place until December 11, 2013.

The safeguard allows WTO members to withdraw concessions granted to China or limit imports from China when Chinese-origin products cause or threaten to cause market disruption. In the U.S., this product specific safeguard has taken the form of Section 421 investigations conducted by the International Trade Commission.

(Although the ITC has made four recommendations that President Bush implement Section 421 restrictions against China due to market disruption caused by products from China (e.g. circular welded non-alloy steel pipe, certain ductile iron waterworks fittings, pedestal actuators, and certain steel wire garment hangars), he declined to take any action.)

Countervailing or Antidumping Duties as a Tool Against China Imports

Countervailing (CV) duties can now be applied to imports from China.

Antidumping (AD) and other import relief measures may not be accessible to certain portions of the U.S. textile industry – for example, those that make components – if what they manufacture is not "like or directly competitive to" the subject Chinese imports. In addition, new AD remedies have not been applied to any imports of textiles or apparel for at least a decade.

(See ITT's Online Archives or 06/01/07 news, (Ref: [07060120](#)), for BP summary of the Section 421 product-specific safeguard for China.

See ITT's Online Archives or 04/06/07 news, (Ref: [07040625](#)), for BP summary of Commerce's decision to apply CV duty law to China.

See ITT's Online Archives or 05/08/08 news, (Ref: [08050820](#)), for BP summary of ITA again deciding not to self-initiate an AD investigation on Vietnam apparel.

See ITT's Online Archives or 12/07/07 news, (Ref: [07120720](#)), for BP summary of 2008 China quota levels.

See ITT's Online Archives or 04/21/05 news, (Ref: [05042125](#)), for BP summary of a 2005 GAO report entitled: *U.S.-China Trade: Safeguard Procedures Should be Improved*.

See ITT's Online Archives or 10/10/02 news, (Ref: [02101020](#)), for BP summary of 2002 GAO report entitled: *World Trade Organization: Analysis of China's Commitments to Other Members.*)

GAO Sees Improvement on C-TPAT Benefits, Cites Need for Better Validations – By: Sandler, Travis & Rosenberg, P.A.

A Government Accountability Office report on the Customs-Trade Partnership Against Terrorism finds that U.S. Customs and Border Protection has made progress in addressing various shortcomings identified in previous GAO studies. CBP has taken steps to improve the C-TPAT validation process, strengthened its policies for granting benefits to participating importers, created a plan for ensuring adequate staffing, implemented a records management system for documenting program decisions and put additional performance measures in place. Nevertheless, the report states, CBP continues to face challenges in ensuring that participants' security practices meet minimum criteria and in effectively managing the program.

Program Benefits. According to the GAO, CBP has strengthened its policies for granting benefits to importers (which account for 48 percent of total C-TPAT membership) and has efforts underway to improve its policies for granting benefits to members in other sectors. CBP has established requirements for C-TPAT members in nine trade sectors (importers, sea carriers, highway carriers, rail carriers, air carriers, foreign manufacturers, customs brokers, U.S. and foreign maritime port authorities and terminal operators, and long-haul highway carriers in Mexico) to meet minimum security criteria for their specific sectors and plans to issue such criteria for the one remaining sector (freight consolidators/ocean transportation intermediaries and non-vessel-operating common carriers) by mid-2008. CBP has also introduced a three-tiered benefits process for importers that addresses a previous GAO concern that companies were being granted full C-TPAT benefits before their security procedures were verified. (The report notes that while participants in other sectors continue to be eligible for all available benefits before validation, CBP has not pursued a tiered benefits system for them because it has been unable to identify any additional benefits it could offer them under such a system.)

Validations. The GAO states that while CBP has taken steps to improve the C-TPAT security validation process it remains challenged to verify that C-TPAT members have security practices consistent with the minimum criteria established for their particular sector.

- There are problems with the portable data-gathering instrument that CBP has provided to its security specialists to help ensure that validation information is consistently collected, documented and uniformly applied to decisions regarding the awarding of benefits. In particular, the usefulness of this instrument is limited by the fact that it provides default “no” responses, which fails to sufficiently indicate whether a response was an automatic default or intentionally answered in the negative by the security specialist. CBP says it is developing a second-generation tool that will eliminate the use of default “no” responses and address all security criteria.

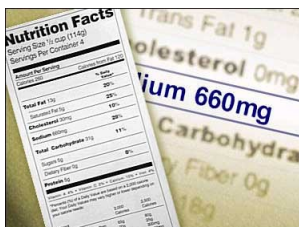
(According to the GAO, CBP has indicated that it plans to eventually use the data collected by these instruments, as it relates to C-TPAT member benefits, for direct input into the Automated Targeting System for identifying containerized shipments for inspection based on risk.)

- While the validation instrument allows security specialists an opportunity to collect data on the results of internal or third-party audits and inspections of C-TPAT members' supply chain security practices, CBP does not require this data to be used in validating those practices. At the GAO's recommendation, CBP stated that it will issue a policy memo to security specialists by June 30 instructing them to request such information and to consider it during the validation process.
- CBP lacks a systematic process to ensure that appropriate actions are taken in response to security specialists' recommendations in validation reports. CBP responded that by June 30 it plans to issue a policy memorandum and revise its standard operating procedures to ensure that all actions required/recommendations are implemented. It also plans to explore ways to capture and quantify this information, either in the C-TPAT Portal (see below) or via other means, and to make appropriate system changes by Dec. 31.

Management and Staffing. CBP has developed a human capital plan to address long-term C-TPAT staffing and resource needs. It has also developed and implemented C-TPAT Portal, a centralized electronic records management system that has the capability to track the status of C-TPAT applicants and members to ensure that they are certified, validated and revalidated in accordance with SAFE Port Act requirements. However, certain data are missing from this system, including interim processing dates (e.g., the date the security specialist sends the 30-day validation notification letter), and this inhibits management's ability to determine compliance with its requirements for managing and operating C-TPAT. The report recommends that CBP enhance the system so that key data elements needed to track compliance are completely documented, and CBP said it plans to make such changes by June 30.

With respect to measures to evaluate the performance of the program, the report notes that CBP's efforts have focused on program administration and participation and the internationalization of C-TPAT principles. Assessing the effectiveness of the program in improving supply chain security, however, continues to be hindered by the difficulty of determining the deterrent effect of security practices and the fact that CBP has not collected data on the results of C-TPAT members' actions to enhance supply chain security. As a result, the GAO states, CBP should identify and pursue opportunities in information collected during C-TPAT member processing activities (e.g., certification and validation) that may provide direction for developing appropriate performance measures. In response, CBP said only that it will strive to complete an analysis of this issue by Dec. 31.

Source: http://www.strtrade.com/wti/2008/may/29/gao_bordersecurity.pdf



Canada Proposes to Tighten Country of Origin Labeling Rules for Food – *By: Sandler, Travis & Rosenberg, P.A.*

Canadian Prime Minister Stephen Harper announced last week that his government is proposing to tighten rules on when food products can be labeled as originating in Canada. Under the proposal, a “Product of Canada” label

could only be used if all or virtually all of a product, including its ingredients and the labor and processing used to make it, is Canadian. The proposal would also revise the criteria for “Made in Canada” labels, which currently can be used so long as at least 51 percent of the production or manufacturing costs are incurred, and the last substantial transformation of the product takes place, in Canada. Public comments are being solicited before the changes are finalized.

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