

BRIEFINGS

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FTZs

- The firm is seeing an increase in Customs audits of foreign-trade zones (FTZs). In anticipation, FTZs should be reviewing their records and operations. The firm can help you conduct a mini-audit to identify issues and corrections in advance. Please contact Marshall Miller for more information.
- Under the new FTZ Board requirements, Annual Reports must now be filed electronically. Companies should submit their information electronically in the next month. Please contact Scott Taylor for more information.
- The firm webinar on Annual Reports will shortly be posted on our website for purchase and downloading.

2012 HTSUS AND SCHEDULE B

- On December 29, 2011, President Obama [signed](#) a proclamation modifying the 2012 Harmonized Tariff Schedule of the United States (HTSUS). The changes will take effect February 3, 2012. The U.S. International Trade Commission has posted the modified HTSUS on its [website](#). 77 Fed. Reg. [413](#) (Jan. 4, 2012).
- An Export.gov [posting](#) reminds Automated Export System (AES) users to download the new import classifications and export Schedule B numbers for 2012 and that a 30-day grace period for use of the old codes ends January 31. After this date, filings using old codes will result in transaction failures.
- Census has also updated its [list](#) of 232 HTSUS classifications that cannot be used in AES declarations. Schedule B numbers have to be used for these commodities.

2012 SEMINARS

Upcoming seminars for 2012 include:

- March 6-7 - HTSUS Classification
- April 10 - FTZ 101
- April 11 - Advanced FTZ 201
- May 1 - Import/Export 101
- May 2 - Advanced Import/Export 201

For more details on our seminars, contact [Penny Freeman](#) or visit our website.

NO CVDs ON CHINA

In a landmark case, the U.S. Court of Appeals for the Federal Circuit (CAFC) has issued a decision that countervailing duties (CVD) may not be imposed on non-market economies (NME). The CAFC decision, which involved Chinese off-road tires, provides U.S. importers and foreign exporters with a basis to challenge the 23 other CVD orders applicable to NME countries China and Vietnam. The government still could appeal this decision to the U.S. Supreme Court. Contact Brian Murphy with questions. [GPX International Tire Corp. v. U.S., CAFC 2011-1107, -1108, -1109](#) (Dec. 19, 2011).

CUSTOMS COMMISSIONER

Customs Commissioner Alan Bersin [resigned](#) effective December 30, 2011, after the Senate Finance Committee did not act to confirm his appointment. His recess appointment by President Obama would have expired at the end of 2011. Customs Deputy Commissioner David Aguilar will serve as Acting Commissioner until a new Commissioner is appointed.

RELATED PARTY VALUES

Customs has proposed revoking a ruling and treatment relating to post-entry price adjustments in the context of transfer pricing. The result would make it easier for related parties to establish transaction value, but would require participation in the Reconciliation Prototype, which requires serious administrative effort. Comments are due January 27. Contact Tom Lobred or Sean Murray for detailed information. [46 Cust. B & Dec. 1](#) (Dec. 28, 2011).

CALIFORNIA LAW

California's Transparency in Supply Chains Act went into [effect](#) on January 1, 2012. It requires large California manufacturers and retail sellers to disclose their efforts to end human trafficking and slavery in their supply chains through standards, verification, supplier certification, and training. Companies are already receiving certification requests from customers. Responses must be verifiable. The firm has structured processes linked to existing supply chain verification programs. Contact Marshall Miller or Sean Murray with questions.

TRADE AGENCY REORG

President Obama has [announced](#) his intent to restructure the Commerce Department and combine six agencies (Small Business Administration, U.S. Trade Representative, the Import-Export Bank, the Overseas Private Investment Corporation, and the Trade and Development Agency). This consolidation could eliminate 1,000 jobs and save \$3 billion over 10 years.

EAR / ITAR PROPOSED RULE

The Directorate of Defense Trade Controls (DDTC) and the Bureau of Industry and Security (BIS) have proposed changes to transfer certain vessels and related articles from the U.S. Munitions List (USML) to the Commerce Control List (CCL). In addition, although many of the descriptions will change, the administration is abandoning the original tiering proposal for now. Comments are due by February 6. 76 Fed Reg. [80282](#) and [80302](#) (Dec. 23, 2011).

ECCN CHANGES

- The BIS has posted corrections to Commerce Control List (CCL) Category 9 regarding gas turbine engines. 76 Fed. Reg. [81793](#) (Dec. 29, 2011).
- Export Control Classification Number (ECCN) 1E001 has been corrected to limit control for National Security (NS) Column 2 reasons to technology related to products controlled under ECCN 1A004. 76 Fed. Reg. [79054](#) (Dec. 21, 2011).

SIMPLIFIED ENTRY PILOT

Customs has issued two sets of Frequently Asked Questions (FAQs) on the ACE Simplified Entry Pilot: one on the [policy](#) aspects and another on its [technical](#) aspects. The Pilot, using selected brokers, is scheduled to start testing by late January 2012.

BLUE LANTERN

In a [report](#) published by the Directorate of Defense Trade Controls, the number of "Blue Lantern" unfavorable end-use monitoring results rose to 21% in 2010 from 15% in 2009. Exporters of licensed products need to ensure they have robust processes for ensuring continuing compliance with license terms and conditions.

OFAC SYMPOSIUM

The Office of Foreign Assets Control (OFAC) is holding a [symposium](#) on U.S. sanction regulations in Washington, DC on February 14.

SETS AND KITS

In a case with potentially broad application, the Court of International Trade (CIT) has ruled that cosmetic kits are not precluded from classification as a General Rule of Interpretation (GRI) 3(b) retail set with the essential character of eye make-up simply because they include a reusable cosmetics case which is not specially fitted or appreciably larger than its contents. The CIT criticized Customs for confusing GRI 3(b) composite good and retail set requirements in Customs rulings and the Informed Compliance Publication (ICP) on sets. Importers should review their set imports to identify containers that are being separately classified. Contact Brian Murphy with questions. *Estee Lauder, Inc. v. U.S.*, CIT Slip Op. [12-1](#) (Jan. 3, 2012).

DEFENSE SUPPLY CHAINS

The President recently signed the [National Defense Authorization Act for Fiscal Year 2012](#). An important provision of the new act requires increased knowledge and policing of supply chains to prevent the use of counterfeit parts in Department of Defense (DoD) procurement. Large contractors are required to install systems to detect and avoid use of counterfeit parts. The Act also authorizes Customs to share information with companies to determine if imported parts are counterfeit.

DEFENSE ARTICLE BROKERING

The DDTC has issued a Proposed Rule that would broaden the scope of "brokers" and "brokering activities." Comments on the Proposed Rule are due by February 17. 76 Fed. Reg. [78578](#) (Dec. 19, 2011).

BROKER SELF-ASSESSMENT

Customs has announced the completion of the Broker Self-Assessment Outreach Pilot, with no plans to proceed with another program. 76 Fed. Reg. [75553](#) (Dec. 2, 2011).

GSP UPDATES

- President Obama has issued a proclamation listing changes to the Generalized System of Preferences (GSP). 77 Fed. Reg. [68273](#) (January 4, 2012).
- Customs believes that refunds for eligible GSP entries filed in 2011 via the Automated Broker Interface with the Special Program Indicator "A" should all be issued by the end of February 2012.

FDA DEBARMENT ORDER

The Food and Drug Administration (FDA) has issued an order debarring Anneri Izurieta, a dairy trader, from importing into the United States for 30 years as a result of multiple convictions for importing, distributing, and failing to re-deliver adulterated products. 77 Fed. Reg. [2070](#) (Jan. 13, 2012).

ELECTRONICS CENTER

Customs has posted [contact information](#) for the Industry Integration Center for Electronics, which the trade is directed to use for technical guidance, clarification of Customs policies, and assistance with CBP Form 28s and 29s, cargo holds, and counterfeit/substandard imports of electronics.

FEDEX PENALTY

FedEx has [agreed](#) to pay a \$370,000 penalty to settle six alleged violations of the Export Administration Regulations for facilitating unlicensed exports to Chinese and UAE entities on the BIS "Entity List" and for unlicensed parts shipments to Syria. This illustrates how both exporters and carriers can be penalized.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 1/15/12		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	277	260
SUBZONES	683	534
PENDING		
ZONES	5	
SUBZONES	17	
MISCELLANEOUS	34	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	

The material contained herein is not to be construed as legal advice or opinion. More information may be obtained by contacting any attorney within the firm.
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