

BRIEFINGS

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FTA

- The FTAs with Korea, Colombia, and Panama were [transmitted](#) to Congress on October 3 and fully passed by both Houses of Congress on October 13. The President is expected to sign all three soon.

- After the President's signature, Korea must ratify its FTA, there must be an exchange of diplomatic notes for the FTAs to enter into force, and proclamations must be issued containing specific tariff revisions and product-specific rules.

- Once these FTAs are implemented, between 80-90% of U.S. exports of consumer and industrial products will become duty-free immediately ([Colombia](#) and [Panama](#)) or within 5 years ([Korea](#)), making U.S. exports more competitive.

- The [International Trade Administration](#) (ITA), [Office of the U.S. Trade Representative](#) (USTR), and the [Commerce Department](#) have detailed information on their websites regarding these FTAs, including the text of the FTAs and a searchable database by HTSUS number for duty rates by year.

- For staged duty rate reductions under these FTAs, remember the possibility of using foreign-trade zones, particularly at year end.

ANTIDUMPING CASH DEPOSITS

The ITA has changed its practice of accepting bonds for affirmative preliminary determinations in antidumping or countervailing duty cases. Importers will be required to pay a cash deposit. The rule applies to all investigations initiated on or after November 2, 2011. 76 Fed. Reg. [61042](#) (Oct. 3, 2011).

2011 TRAINING SEMINARS

The firm has two in-house training seminars remaining for 2011. The FTZ 101 and 201 seminars on are December 6 & 7, 2011.

Please see our website for details and register by email to [Penny Freeman](#). The 101 seminars are at no charge to clients. There is a fee for non-clients. Payment by credit card is now accepted.

TAA/GSP/MPF

The House has passed the Senate version of [H.R. 2832](#), which included the "Trade Adjustment Assistance Extension Act of 2011," a retroactive renewal of the Generalized System of Preferences (GSP) through July 13, 2013, and an amendment that increases the Merchandise Processing Fee (MPF) by 65% to 0.3464% *ad valorem* through November 30, 2015. The MPF is still capped at \$485 per entry. Importers should continue to flag GSP-eligible entries to help facilitate retroactive duty refunds. Customs will issue specific instructions for retroactive GSP claims.

HAPPY HALLOWEEN

Customs has modified and revoked rulings classifying certain lighting sets that may be marketed for Halloween purposes under the tariff provision for "lighting sets of a kind used for Christmas trees." Customs reasoned that it is a "principal use" tariff provision which is dependent on the "class or kind" of goods to which the import belongs, and not on the specific use of the import. [45 Cust. B. & Dec. 41](#) (Oct. 5, 2011).

PRICING FORMULAS

U.S. Customs and Border Protection is [seeking](#) public comment on whether to expand its definition on what is considered an acceptable formula for purposes of determining transaction value under 19 U.S.C. § 1401a. Adoption of this proposal could increase the acceptability of transaction value in related party importations. Many companies already claim use of transaction value when their valuation formulas may really fit the "fallback" valuation methodology. In order to take advantage of this proposed change, importers would have to participate in Customs Reconciliation program and satisfy eight other factors. For more detailed information or assistance with comments, contact Tom Lobred.

EPA & DOT INFO SHARING

The Environmental Protection Agency (EPA) and the Department of Transportation's (DOT's) Pipeline and Hazardous Materials Safety Administration (PHMSA) have [signed agreements](#) to become part of Customs Import Safety Commercial Targeting and Analysis Center (CTAC), which will increase targeting of shipments subject to EPA and DOT jurisdiction.

BEARINGS

The International Trade Administration (ITA) has revoked the antidumping orders on ball bearings from Germany, France, and Italy, effective September 15, 2011. Customs will continue to suspend liquidation of all ball bearing entries that were made prior to September 15, 2011. 76 Fed. Reg. [57019](#) (Sept. 15, 2011).

DATA CONFIDENTIALITY

To prevent the publication of sensitive company import/export trade activity information, a trade data confidentiality [request](#) should be filed with Customs every two years. Contact Brian Murphy for a copy of the detailed explanatory memorandum and assistance.

EXPORTS TO IRAN

- An individual who attempted to export a Varian Ximatron oncology system to Iran via the United Arab Emirates without a license has been denied export privileges for six years. 76 Fed. Reg. [60452](#) (Sept. 29, 2011).
- OFAC has [settled](#) a criminal case with Sunrise Technologies and Trading Corp. of Flushing, NY concerning their exports of U.S. products to Iran via the United Arab Emirates. Sunrise and its principal owner, Jeng Shih, have been fined \$1.25 million and denied export privileges for 10 years. The denial order will be suspended provided Sunrise and Mr. Shih do not commit any additional export violations.

VALVE EXPORTS

Flowserve Corp. and ten of its subsidiaries have [agreed](#) to pay \$2.5 million in fines and penalties to the Bureau of Industry and Security (BIS) for valve and pump shipments to Singapore, Malaysia, China, Venezuela, and Syria. Flowserve is also paying \$502,000 for exports to Iran, Cuba, and Sudan, and is required to conduct external audits of its export compliance operations and report the results to BIS.

IRAN AND SUDAN

On October 12, OFAC issued a Final Rule liberalizing the export of most types of food to Iran and Sudan. U.S. exporters may now export food under a general license. Other agricultural products, medicines, and medical products are not affected by the new regulations and still require an export license issued by OFAC before exporting to either of these two countries. 76 Fed. Reg. [63191](#) (Oct. 12, 2011).

ACE UPDATES

Status updates from the September 22-23, 2011, Trade Support Network (TSN) ACE Plenary session in Arlington, Virginia include:

- ITDS – Testing of the record set for data transmission to PGAs at the same time as ACE Entry Summary transmittals will occur in October.
- Electronic Air In-Bond (QX/WX) – Customs hopes to complete functionality testing by mid-October.
- Document Imaging System (DIS) – DIS is being developed to attach images of forms to be sent to Customs and PGAs. A [Federal Register](#) notice is expected in the October-November timeframe.
- Post Summary Correction (PSC) – As of September 22, Post Entry Amendments (PEAs) are no longer accepted for entry summaries filed in ACE. ACE entry summaries must use the new electronic PSC.
- Automated Export System (AES) – Customs and Census are beginning the development of an ACE/ITDS/AES Single Window Export System.
- Simplified Entry – A Customs-trade workgroup has been investigating ways to simplify the entry process. They have proposed: (1) a reduced list of data elements to be submitted to request release of goods, and (2) the creation of a single entry for imports occurring over a period of time rather than a single entry for each shipment.

CUSTOMS BILLS

Customs has issued a CSMS message indicating that it will no longer issue its familiar pink carbon Customs bill (CBPF 6084) forms, which were similar to the courtesy notices of liquidation that have also been phased out. CSMS [#11-000245](#) (Oct. 11, 2011).

SYRIA

The Office of Foreign Assets Control (OFAC) has issued a list of [frequently asked questions](#) regarding the new Syrian sanctions.

LACEY ACT DECLARATIONS

- Comments from various trade associations generally support the Animal and Plant Health Inspection Service (APHIS) approach to addressing Lacey Act implementation problems. The Comments are available at [www.regulations.gov](#) by searching for “APHIS-2010-0129.”
- APHIS has posted a [sample](#) Lacey Act Declaration (PPQ 505) to illustrate how to fill out the revised PPQ 505.

TARIFF CLASSIFICATION

In [Lemans Corporation v U.S.](#), the Court Federal Appeals for the Federal Circuit (CAFC) has affirmed a lower court decision that motocross jerseys and pants, and motorcycle jackets are classified as high duty wearing apparel in HTSUS Chapters 61 and 62 rather than as duty-free “sports equipment” in Heading 9506. CAFC Slip Op. [2010-1295](#) (Oct. 3, 2011).

HMF

The Federal Maritime Commission [voted](#) to begin an inquiry into whether the U.S. Harbor Maintenance Fees encourage U.S.-bound cargo to be shipped through maritime ports in Canada and Mexico.

NEW AES ERROR CODES

In a recent AES Broadcast message, Census indicated that the migration of the AES to new platforms has generated some unfamiliar error codes. The codes are on the AES [website](#).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/11		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	277	260
SUBZONES	678	530
PENDING		
ZONES	3	
SUBZONES	20	
MISCELLANEOUS	32	
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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