

BRIEFINGS

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FDA IMPORT OPS

The Food and Drug Administration (FDA) has issued a [fact sheet](#) regarding the reorganization of its Office of Regulatory Affairs, which includes the creation of the Office of Enforcement and Import Operations (OEIO). The OEIO will include the former Division of Import Operations and Policy (DIOP) and three FDA enforcement offices. It will be overseen by the new Office of Operations, which reports to the Associate Commissioner of Regulatory Affairs.

CEE - OIL, GAS, & MINERALS

Customs has [opened](#) its third Center for Excellence and Expertise (CEE) – the Petroleum, Natural Gas and Minerals CEE – on September 17. The other five CEES – Agriculture and Prepared Products, Base Metals and Machinery, Consumer Products, Industrial and Manufacturing Materials, and Textiles, Wearing Apparel and Footwear – are scheduled to be opened by the end of FY 2013.

CARBON FIBER CASE

According to a [Complaint](#) and Affidavit in support of an arrest warrant filed in a New York federal district court, the Department of Commerce and the Department of Homeland Security used a website that purported to be a company dealing in high technology products to arrest an individual for allegedly taking substantial steps towards committing the crime of attempting to export unlicensed Commerce-controlled carbon fiber to China for use in fighter jets. *U.S. v. Zhang*, Complaint No. 12M829 (E.D.N.Y. Sept. 7, 2012).

WEBINARS

Upcoming webinars include:

- October 18 - Import/Export Considerations in Company Mergers and Acquisitions
- October 25 - AD/CVD Case Management
- November 1 - Free Trade Agreement Compliance

All previous webinars are available at our [eStore](#).

SEMINARS

- November 13 - FTZ 101
- November 14 - Advanced FTZ 201

Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

SEA & RAIL MANIFESTS (M1)

- Customs announced that it has successfully [transferred](#) 100% of impacted trade parties, including ocean carriers, rail carriers, QP/WP in-bond transaction filers, and Automated Broker Interface software developers, to the Automated Commercial Environment (ACE) e-Manifest: Rail and Sea (M1). ACE now operates as the only Customs-approved data interchange for rail and sea manifest transmissions.

- Customs has posted a set of frequently asked questions (FAQs) about the use of in-bond within e-manifest: Rail and Sea (M1). A CSMS message has been issued to remind those filing ACE ABI In-Bond transactions that they must nominate themselves as a second notify party in the transaction. If the carrier has not nominated the filer, the filer will not receive subsequent status notifications related to the in-bond filing. CSMS [#12-000381](#) (Sept. 24, 2012).

IRAN SANCTIONS

On October 9 President Obama issued Executive Order (EO) 13628 to give effect to additional sanctions against Iran and Syria. Of particular importance to U.S. multinational companies, non-U.S. subsidiaries owned or controlled by U.S. persons or entities will no longer be permitted to do business with Iran unless there is a U.S. Office of Foreign Assets Control (OFAC) issued license, or a general license issued for a specific type of transaction. Shipments from “speculative inventory” that is EAR99 and was not earmarked for Iran when exported from the U.S. can no longer be sent from U.S.-owned subsidiaries without a license. OFAC has published a [Frequently Asked Questions](#) and also issued [general license C-1](#) that authorizes, for the next 45 days, donations related to the recent earthquake in Iran. 77 Fed. Reg. [62139](#) (Oct. 12, 2012).

END-USE CHECKS

According to statements made by officials at the latest Regulatory and Procedures Technical Advisory Committee, the Bureau of Industry and Security (BIS) is changing the way it conducts post-shipment verifications (PSVs) and pre-license checks (PLCs). BIS is now targeting many non-licensed shipments going to areas where diversion is common. Previously, up to 90% of the transactions that it targeted for verification or checks were licensable. Since changing its methodology, BIS is finding that roughly 20% of the PSVs and PLCs indicate a likelihood of diversion. This is up from approximately 10% prior to 2009.

EXPORT LICENSES

At the recent Regulations and Procedures Technical Advisory Committee meeting, Assistant Commerce Secretary for Export Administration Kevin Wolf indicated that a single license application processing system based on the Department of Defense's USXPorts system will be operational before Thanksgiving for use by both the BIS and the Directorate of Defense Trade Controls (DDTC).

OFAC LICENSE STATISTICS

OFAC has issued [licensing](#) statistics for the first half of 2012. 517 licenses were issued for exports of agricultural or medical products (including medicines and devices) for Iran and Sudan. 461 were for Iran and 56 for Sudan. Average processing time was 108 business days.

FORCED CHILD LABOR

The Department of Labor recently [updated](#) its "List of Goods Produced by Child or Forced Labor" to include four new goods (baked goods, beef, fish, and thread/yarn) and three new countries (South Sudan, Suriname, and Vietnam). The new list has a total of 134 goods from 74 countries that are believed to be produced by forced labor, child labor, or both in violation of international standards.

COLOMBIA TPA

Customs has issued an Interim Rule, effective September 26, 2012, to implement the rules of origin and other Customs provisions of the U.S.-Colombia Trade Promotion Act. Comments may be submitted until November 26, 2012. 77 Fed. Reg. [59064](#) (Sept. 26, 2012).

ICPs

Customs has [posted](#) an update to its Informed Compliance Publication (ICP) on CBP Enforcement of Intellectual Property Rights and reposted, without changes, ICPs on buttons, snap and slide fasteners and similar articles, and fasteners of Heading 7318.

HTSUS UPDATES

Customs has issued a Final Rule to conform the North American Free Trade Agreement (NAFTA) rules of origin with the recent World Customs Organization-led HTSUS changes. This Final Rule also includes guidance for determining whether certain textile/apparel goods are considered a new article of commerce under the U.S./Morocco and the U.S./Bahrain FTAs. 77 Fed. Reg. [58931](#) (Sept. 26, 2012).

ISA EXPANSION

Customs has announced an expansion of its Importer Self-Assessment (ISA) program to allow companies who have successfully completed a Customs Focused Assessment audit within the last year to transition into the ISA program without further Customs review. Additional requirements include being a U.S. or Canadian resident importer, a C-TPAT program member, having developed a risk-based self-testing plan, and agreeing to meet all of the ISA program requirements. 77 Fed. Reg. [61012](#) (Oct. 5, 2012).

BRAZIL

Brazil's Foreign Relations Minister, Antonio Patriota, has told U.S. Trade Representative Ron Kirk that Brazil will not reconsider its tariff increases of up to 25% on a series of industrial goods as part of an internal industrial policy. U.S. exports impacted include chemicals, paper, and glass.

DDTC & AES FATAL ERRORS

The U.S. Census Bureau issued a new broadcast on September 17 that addresses Fatal Error codes 561 and 590. Both relate to DDTC licenses. Fatal Error code 561 will occur if the DDTC license entered into the Automated Export System (AES) is unknown. Fatal Error code 590 will appear if the entered value either exceeds the value of the DDTC license or the incremental value of the latest shipment pushes it past the license limit.

RUSSIAN NETWORK BUSTED

The [U.S. Department of Justice](#) has charged several members of a Russian military procurement network, along with a Houston electronics firm, with U.S. export control violations for telling suppliers that their products were for traffic lights and other commercial end uses, when in fact the goods were often destined for the Russian military and intelligence services. The defendants could face over 20 years in prison, if convicted.

As a result, BIS added 164 entities to its Entity List on October 9, with most being in Russia. BIS also added 8 entities, amended 36 entities, and removed 8 entities on September 19. 77 Fed. Reg. [58006](#) (Sept. 19, 2012) and 77 Fed. Reg. [61249](#) (Oct. 9, 2012).

IRAN PENALTY

A nutrition [company](#) and its [co-owner](#) have paid \$62,500 and \$37,500 respectively in civil penalties for making false statements to BIS Special Agents and attempting to export whey protein supplements to Iran without the required OFAC authorization. The sales invoice reflected a logistics provider in the U.A.E. as the "ship to" party and an Iranian company as the "bill to" party.

CHEESE SMUGGLING

Canadian and U.S. authorities [recently](#) charged three men, for purchasing cheese in the U.S., smuggling it across the border without paying Customs fees, and selling it to Canadian restaurants for a significant financial gain.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/12		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	280	263
SUBZONES	690	537
PENDING		
ZONES		5
SUBZONES		14
MISCELLANEOUS		48
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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