

# BRIEFINGS

ROUTING SLIP

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## FTZ BOARD DEVELOPMENTS

At the National Association of Foreign Trade Zones Legislative Seminar in Washington, D.C. on February 10, Andrew McGilvray, Executive Secretary of the Foreign-Trade Zones Board, announced that the Alternative Site Framework Application format guidelines are now available on the FTZ Board [website](#). Other web enhancements include a list of 2008 Annual Reports received to date from Grantees, and copies of all applications and comments filed beginning in 2009. A revision to the FTZ Board Regulations continues to be reviewed internally at Commerce.

## FTZ SAVINGS

In these difficult economic times, we suggest three immediate actions to increase FTZ savings:

- Switch "domestic" zone merchandise that is really import duty paid to "foreign" status
- Adopt e-214
- Adopt QP/WP

Contact Marshall Miller or Linda King for assistance.

## EXECUTIVE HOLD

The Obama Administration [memorandum](#) to all agencies asking them to hold pending regulations until they can be reviewed will impact the issuance of the new FTZ Board Regulations, but will not impact the implementation of FTZ Board Guidelines for the new Alternative Framework.

## 2009 Training Seminars

- Details on the firm's 2009 seminar schedule are on our website at [www.millerco.com](http://www.millerco.com). Register now by e-mail to Penny Freeman at [pfreeman@millerco.com](mailto:pfreeman@millerco.com).

## RECENT EXPORT PENALTIES

The recent increase in inter-agency cooperation has resulted in significantly increased export enforcement actions, highlighting the need for exporters to have in place a robust export compliance program. Examples include:

- Indictments for false SEDs.
- [\\$25 million](#) for unlicensed exports of night vision equipment by an acquired company.
- [\\$200,000](#) for unlicensed exports of lubricants containing chemical weapons precursor triethanolamine (TEA).
- [\\$250,000](#) for unlicensed exports of electric cattle prods.
- [\\$200,000](#) for electronics exports to China's missile program.
- [\\$130,000](#) for unlicensed exports of engineering software.
- [Twenty-year denial of export privileges and \\$250,000](#) for exports of substances controlled for Nuclear Proliferation reasons.
- 76 arrests, 40 indictments by BIS in FY 2008. DDTC netted 192 arrests, 161 indictments, and 100 convictions. In FY 2009, BIS already has 13 settlements and \$1.8m in fines.

Contact Sean Murray or Mark Teerink for assistance in developing an export compliance program.

## IMPORTER SECURITY FILINGS

The Importer Security Filing ("10+2") requirement went into effect on January 26, but since enforcement will not begin until January 2010, some companies are choosing to not yet make ISF filings. At the NAFTAZ Legislative Seminar on February 10, Customs indicated that when the enforcement period starts in January 2010 Customs will more favorably view companies that tried, yet failed, to make accurate filings throughout 2009 than companies that did not make ISF filings at all. Please contact Michael O'Neill or Sean Murray with questions.

Customs has posted an updated ISF Frequently Asked Questions ([FAQ](#)) document on its website.

Unified ISF and Customs entry using Remote Location Filing (RLF) is not currently available, [pending](#) Customs programming changes.

## BUY AMERICAN

The controversial "Buy American" provision has been modified in the final stimulus bill to require U.S. iron, steel, and manufactured products in stimulus package infrastructure projects unless international obligations are violated or a waiver granted. [H.R.1, § 1604](#).

## FTZ WEEKLY ENTRY

Customs is deleting an old edit in ACS that will significantly increase paperless releases on Weekly Estimated CBPF 3461s.

## LACEY ACT REVISED

The Animal and Plant Health Inspection Service (APHIS) has published notice of revisions to the Lacey Act declaration requirements for imported plants and plant products. Each of the four implementation phases has been extended to six months. Enforcement begins April 1, 2009. Comments are due by April 6, 2009. 74 Fed. Reg. [5911](#) (Feb. 3, 2009).

## CPSIA IMPLEMENTATION

- While separate House and Senate bills have been introduced to delay the enforcement of Consumer Product Safety Improvement Act (CPSIA) (H.R. 968, [S. 374](#)), the CPSIA's new standards for lead and phthalates in children's products, which apply to both which imports and exports, went into effect on February 10.
- A U.S. District Court overturned the Consumer Product Safety Commission's (CPSC's) less stringent interpretation of the CPSIA ban on phthalates, ruling that it covers all commercial inventory regardless of manufacturing date. [NRDC v. CPSC](#), SDNY Slip Op. 08 Civ. [10507](#) (Feb. 6, 2009).

## USTR MODIFIES LIST

The Office of the U.S. Trade Representative (USTR) has added 45 products to the [list](#) of European Union (EU) products subject to retaliatory duties, including various meats, vegetables, and other food products. The USTR also added the new EU members to the country list. The retaliatory duties were first imposed in 1999 after a favorable WTO ruling on EU tariffs on U.S. beef containing hormones. 74 Fed. Reg. 4265 (Jan. 23, 2009).

## NOT COOL

The incoming Secretary of Agriculture, Tom Vilsack, has [announced](#) the removal of funding from the 2009 USDA budget for the enforcement of the new country of origin labeling (COOL) program.

## TSA CARGO SCREENING

New Transportation Security Administration (TSA) rules went into effect on February 1, 2009, requiring screening of 50% of all cargo scheduled for passenger flights. A Certified Carrier Screening Program (CCSP) was also initiated for air carriers, air freight forwarders and companies. Some companies have opted for self-screening to protect product quality. Contact Sean Murray with questions.

## WTO DATABASE

The World Trade Organization (WTO) has [announced](#) a searchable web-based Regional Trade Agreement (RTA) [database](#).

## COMMERCE'S DAY IN COURT

In a historic first decision on antidumping law, the U.S. Supreme Court unanimously upheld the Commerce Department's interpretation of a sale of goods under 19 U.S.C. § 1673 and found that the mixed goods and services contract could determine a sale at less than market value. [U.S. v. Eurodif](#), Slip Op. [07-1059](#) (Jan. 26, 2009).

## EXPORT LICENSE TRANSFERS

The Bureau of Industry and Security (BIS) has issued a [Notice on Transfers of License](#), discussing obligations in cases such as mergers and acquisitions.

## HAND CARRIES

Clients are reminded of the need to have effective corporate passenger and hand carry procedures. Customs recently [seized](#) eleven antique Fabergé ornaments and other merchandise worth more than \$250,000 from two British nationals for their failure to declare the merchandise. Both passengers were also refused entry into the U.S. under the visa waiver program.

## BROKER EXAM

The next Customs broker licensing exam is scheduled for April 6, 2009. Applications are due by March 6.

## TRADE ENFORCEMENT

- The Trade Enforcement Act of 2009 ([H.R. 496](#)) has been introduced by Rep. Charles Rangel (D-NY) and Rep. Sander Levin (D-MI) to revive the "Super 301" provision and create an "Office of Congressional Trade Enforcer."
- The Trade Complaint and Litigation Accountability Improvement Measures Act of 2009 (CLAIM) Act ([S.363](#)), which has been introduced by Sen. Olympia Snowe (R-ME), would limit the USTR's ability to decline petitions for formal action where U.S. trade rights may have been violated and grant the CIT de novo jurisdiction over USTR denials of Section 301 petitions.

## UPDATED HTSUS

The International Trade Commission has [posted](#) online a February update to the 2009 HTSUS that includes the U.S.-Peru Trade Promotion Agreement and accelerated U.S.-Chile FTA duty eliminations.

## GSP

The International Trade Commission (ITC) has released its report on possible modifications to the Generalized System of Preferences (GSP), including the addition of 11 HTS subheadings. USITC Publ. No. [4057](#) (Jan. 2009).

## CUSTOMS NOW HIRING

While many employers are cutting jobs, Customs is recruiting individuals to fill 11,000 law enforcement and support positions. Customs is facing a substantial loss of experience as a large percentage of current employees are reaching retirement.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 2/15/09		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	272	254
SUBZONES	632	529
PENDING		
ZONES	2	
SUBZONES	20	
MISCELLANEOUS	31	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	