

BRIEFINGS

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KOREA FTA

- President Obama has signed a proclamation to implement the U.S.-Korea Free Trade Agreement (FTA) on March 15, 2012. Almost 80% of U.S. industrial exports to Korea will immediately become duty-free. 77 Fed. Reg. [14265](#) (March 9, 2012).
- Customs has issued a notice on making U.S.-Korea FTA claims. CSMS [#12-000059](#) (Feb. 28, 2012).
- Customs has issued [instructions](#) to the ports on U.S.-Korea FTA implementation, including FTA rules of origin, the treatment of some tariff discrepancies, and how to file manual entries until March 21 when ACS should be programmed to accept "KR" claims. CSMS [#12-000081](#) (March 15, 2012).
- The U.S. International Trade Commission (USITC) has [posted](#) Revision 1 to the 2012 HTSUS, which includes changes due to the FTA.
- Customs has established a new [webpage](#) for FTA information.

eSTORE

Visit the [eStore](#) on our website to register for live seminars/webinars, purchase past webinars and documents for download, and pay by credit card. Current eStore offerings include: webinars on "New FTZ Board Annual Report Requirements," and the "New FTZ Board Regulations," and document sets for "FTZ Operations Manual Changes" and "FTZ Source Documents." These are all client exclusive. You must have a current four (4) digit client matter number to log in. If you do not know your client matter number, contact [Mary Jane Brown](#).

SEMINARS

- Upcoming seminars include:
April 10 - FTZ 101
April 11 - Advanced FTZ 201
May 1 - Import/Export 101
May 2 - Advanced Import/Export 201
- Contact [Penny Freeman](#) or visit the [eStore](#) for details and reservations.
- The April 10-11 FTZ Seminar will include not just zone basics, but will emphasize the new FTZ Board Regulations. The second day will focus on Zone Management issues including inventory controls, bill of materials/work order management, scrap and waste, and inventory variances.

IN-BOND REGS

Customs has issued a Proposed Rule to implement significant changes to the in-bond process, including transforming the paper-dependent process to an automated paperless process, requiring additional information on the in-bond application, requiring electronic requests to Customs before diverting an in-bond, and harmonizing the 30-day transit time for all modes of transportation except pipelines. Customs is not proposing changes to the air commerce in-bond procedures at this time. In-bond FTZ moves will be impacted. Significant changes are necessary. Any client that uses in-bond procedures should submit detailed comments to ensure that all necessary changes are made. Comments are due April 23, 2012. Contact Linda King with questions. 77 Fed. Reg. [10622](#) (Feb. 22, 2012).

NEW FTZ BOARD REGS

The Foreign-Trade Zones (FTZ) Board has issued its Final Rule, which significantly expedites and simplifies processes. The firm spent more than 400 hours on proposed revisions to the Regulations on behalf of the National Association of Foreign Trade Zones. Many of these changes were implemented by the FTZ Board. Changes include:

- Streamlining Subzone Applications. They can be approved in as little as 120 days instead of 6-8 months.
 - Combining manufacturing and processing applications into a streamlined notification application that only requires listing by HTS of imported parts and finished products, reducing application processing time by 66%.
 - Expediting production approval process for companies that can activate faster than 120 days with a letter from Customs.
 - Adding Alternative Site Framework concepts to the Regulations.
 - Eliminating liability for Grantees that are not actively involved in day-to-day zone operations.
 - Limiting fines and penalties to only late Annual Reports and Uniform Treatment violations.
 - Better defining the Uniform Treatment conflict of interest provisions.
 - Clarifying the Public Utility provision.
 - Enhancing Zone Schedule requirements.
- 77 Fed. Reg. [12112](#) (Feb. 28, 2012). Clients are encouraged to listen to the firm webinar on the changes, which is available at our [eStore](#).

FY 2011 TRADE

Customs FY 2011 [trade statistics](#) indicate that Customs processed nearly \$2.3 trillion in trade, a 14% increase over FY 2010; collected over \$37 billion in total duties, taxes, and fees and over \$355 million in AD/CVD duties; and made 24,800 seizures of Intellectual Property Rights (IPR) violations.

C-TPAT EXPORT PILOT

Customs is [soliciting](#) companies to participate in a Customs-Trade Partnership Against Terrorism (C-TPAT) Export Pilot Program. Interested clients should contact Sean Murray.

GSP

- According to Customs, some Generalized System of Preferences (GSP) refunds may have "fallen through the cracks." Importers who have not received a GSP refund for 2011 by the end of March are to file a written refund request by April 18.
- The U.S. Trade Representative has received petitions in connection with the 2011 GSP Annual Review to modify the [list of products](#) that are eligible for duty-free treatment under GSP. 77 Fed. Reg. [10034](#) (Feb. 21, 2012).
- Customs has reposted a 2008 [document](#) that provides general GSP compliance information. Clients are encouraged to carefully reconfirm accurate GSP claims.

DR-CAFTA RULES OF ORIGIN

The USTR has requested suggested changes to the DR-CAFTA rules of origin by April 17. 77 Fed. Reg. [9724](#) (Feb. 17, 2012).

COUNTERVAILING DUTIES

On March 13, the President signed into law [H.R. 4105](#), which allows the U.S. International Trade Administration to continue to apply countervailing duties (CVD) to non-market economies like China and Vietnam, retroactive to 2006. The law is designed to effectively reverse the Court of Appeals for the Federal Circuit decision in [GPX International Tire Corp. v. U.S.](#)

TRADE AGENDA

- President Obama has issued Executive Order No. 361 that establishes the Interagency Trade Enforcement Center (ITEC) to better coordinate, investigate, and strengthen the enforcement of U.S. trade laws. 77 Fed. Reg. [12981](#) (March 5, 2012).
- The President has issued a [Memorandum](#) providing direction to department and agency heads on increasing efficiencies and effectiveness in export work. 77 Fed. Reg. [10935](#) (Feb. 23, 2012).
- The USTR has released the [President's 2012 Trade Policy Agenda and 2011 Annual Report](#).
- President Obama has sent [legislation](#) to Congress - introduced in the Senate as [S. 2129](#) - that would consolidate six trade agencies into one.

ANTIDUMPING DUTY SCOPE

In a remand decision, the Court of International Trade (CIT) has thrown out a Commerce four factor test for the application of AD orders to mixed items, finding it invited analysis of the product in question, not the AD final Order. [Mid Continent Nail Corporation v. U.S.](#), CIT Slip Op. [12-31](#) (March 7, 2012).

AES UPDATES

Customs has announced Automated Export System (AES) [edits](#) for exports that are on a Commerce license. Of particular note, EAR99 cannot be the classification for Code C32. Items that are EAR99 or controlled for AT reasons only should use Code C33. A matrix of State Department license codes is also provided.

FY2012 CUSTOMS INITIATIVES

- Customs has posted a new "[Trade Transformation](#)" page, linking documents for various Customs initiatives, including the new Centers for Excellence and Expertise (CEE).
- In [testimony](#) before the House Subcommittee on Homeland Security, Customs officials stated that FY 2012 & 2013 resources will focus on (AD/CVD) enforcement.

FORWARDERS DEBARRED

The [Directorate of Defense Trade Controls \(DDTC\)](#) has debarred four freight forwarders for price fixing offenses. The forwarders, BAX Global, Panalpina (2 divisions), and Schenker will no longer be approved on new DDTC licenses without a transaction exception request. DDTC does not anticipate that they will be granted. Kuhne and Nagel is being removed from the list of debarred entities, but was still on the DDTC website as of March 15.

PRINCIPAL USE

The Court of Appeals for the Federal Circuit (CAFC) has affirmed a CIT decision that considered actual use in the context of a principal use analysis under Additional U.S. Rule of Interpretation 1(a). [Aromont USA, Inc. v. U.S.](#), CAFC Slip Op. [2011-1017](#) (Feb. 21, 2012).

VOLUNTARY DISCLOSURES

Demonstrating the benefits of Voluntary Self-Disclosure (VSD), the Bureau of Industry and Security indicated at the March 6 Regulations and Procedures Technical Advisory Committee (RPTAC) meeting that only about 3% of the VSDs result in fines or penalties. In the first quarter of FY 2012 (Oct. – Dec.), more than 95% of VSDs resulted in either a warning letter or no action letter.

IIT CHEMICAL RESIDUE FAQ

Customs has revamped its [FAQ](#) document concerning residues imported in Instruments of International Traffic (IITs).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/12		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	277	260
SUBZONES	684	533
PENDING		
ZONES	6	
SUBZONES	17	
MISCELLANEOUS	38	
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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4929 MAIN STREET
KANSAS CITY, MO 64112
816.561.4999
FAX 816.561.5999
E-MAIL intllaw@millerco.com

1875 I STREET N.W., 5TH FLOOR
WASHINGTON, D.C. 20006

233 BROADWAY, SUITE 2702
NEW YORK, NEW YORK 10279