

# BRIEFINGS

VOLUME 22 NO. 4

April 15, 2010

## CUSTOMS COMMISSIONER

The President [announced](#) several trade-related appointments to trade positions while the U.S. Senate was on recess, including the new Commissioner of U.S. Customs, Mr. Alan D. Bersin. Mr. Bersin previously served as Assistant Secretary for International Affairs and Special Representative for Border Affairs in the Department of Homeland Security.

## NEW CENSUS CHIEF

The Census Foreign Trade Division has announced Mr. Nick Orsini as the new Chief of the Foreign Trade Division (FTD). Mr. Orsini began his career in the Foreign Trade Division in 1988.

## MISCELLANEOUS TRADE BILL

Recent action by House Republican leadership to declare a unilateral ban on all earmarks including tariff suspensions has placed the passage of a 2010 miscellaneous tariff and trade bill in doubt.

## NEW ECCNs

The Bureau of Industry and Security has added three Export Control Classification Numbers (ECCNs) - 2A984, 2D984, and 2E984 - for equipment, software, and technology for the control of equipment used to detect concealed objects, either on people or in cargo. The ECCNs are controlled for Regional Stability (RS2) and Anti-Terrorism (AT1) reasons. There is a presumption of approval where there is a government end-use to trusted destinations. 75 Fed. Reg. [14335](#) (March 25, 2010).

## 2010 TRAINING SEMINARS

Details on the firm's 2010 seminar schedule are on our [website](#). There is still time to sign up for the upcoming Advanced Classification Seminar on May 11-12. Register by e-mail to [Penny Freeman](#).

## C-TPAT

In its March C-TPAT 2010 Supply Chain Security Training Seminar, Customs released new guidance for C-TPAT partners, including the latest benefit for Tier 3 members - 4 year revalidation cycles. Customs has provided a "[C-TPAT 5 Step Risk Assessment Process Guide](#)." All C-TPAT participants should be updating their C-TPAT programs to reflect continued Customs program enhancements. Contact Michael Thomas or Sean Murray for more information and assistance.

## AG ACTUAL USE

Customs has updated the Informed Compliance Publication on the Agricultural Actual Use Provisions. [ICP \(Mar. 23, 2010\)](#).

## RPS DIFFICULTIES

Highlighting one of the difficulties in effective restricted parties screening, an April 10, 2010 Wall Street Journal [reported](#) that roughly two-thirds of the Islamic Republic of Iran Shipping Lines (IRISL) vessels have changed their names since late 2008. Most of these changes are not reflected on the Office of Foreign Assets Control (OFAC) lists of embargoed entities, but since the vessels are part of the IRISL, their use by U.S. companies would violate OFAC regulations.

## STEEL FTZS

A recent Foreign-Trade Zone application involving a stainless steel manufacturing operation in Alabama was opposed by several parties. After a public hearing and considering submissions, the Foreign-Trade Zones Board has issued a preliminary recommendation that the Subzone be approved with a Grant Restriction limiting use of the Subzone to export activity. Public comment is invited until May 14, 2010. 75 Fed. Reg. [17692](#) (April 7, 2010).

## TPP

- The initial round of Trans-Pacific Partnership Agreement negotiations between Australia, Brunei, Chile, New Zealand, Peru, Singapore, Vietnam, and the U.S. began in Australia on March 15, 2010; a second round of discussions will begin June 14th in the United States.
- The USTR has requested comments by June 1, 2010 on the environmental impact of the TPP. 75 Fed. Reg. [14479](#) (March 25, 2010).

## 2009 IMPORT STATS

Customs has issued its [2009 Import Trade Trends](#), which reports the total value of imports for FY 2009 as slightly more than \$1.7 trillion, a 25% decrease from FY2008. Revenue also fell, with the collection of \$23.5 billion from duties, \$3.6 billion from fees and miscellaneous collections, and \$2.5 billion in tax revenue. FTZ entry value was 16% of total entry value. Stability and modest growth are predicted for FY 2010.

## FDA PRODUCT CODES

- The Food & Drug Administration's (FDA) replacement Product Codes for radiation-emitting devices must be used beginning April 15, 2010. CSMS [#10-000097](#) (April 6, 2010).
- The FDA has created a new Affirmation of Compliance Code (AofC), "EPRC," to identify Electronic Product Radiation Control Certifying Component Manufacturers. The code should only be used when the name of the manufacturer of the finished product is different than the name of the component manufacturer. CSMS [#10-000075](#) (Mar. 18, 2010).

## WTO HARMONIZED SYSTEM

The WTO has [posted](#) the approved World Customs Organization's recommended changes to the Harmonized System that will take effect on January 12, 2012. Changes include food, chemicals, blood, motorcycles, and video games.

## ENTRY UPDATES

- Customs has issued a Proposed Rule to amend 19 C.F.R. Part 159 for the purpose of discontinuing the mailing of paper courtesy notices of liquidation; only electronic notices will be provided. 75 Fed. Reg. [12483](#) (Mar. 16, 2010).
- As of April 1, 2010, Customs no longer accepts CBP Form [7501](#) versions dated prior to June 2009.

## U.S. AND BRAZIL SETTLE

Brazil and the U.S. have reached a tentative [agreement](#), subject to U.S. implementation, that has postponed Brazil's implementation of retaliatory measures from the WTO Cotton Case.

## DFARS ADDS CLAUSE

The Department of Defense (DOD) has published a new Defense Federal Acquisition Regulation Supplement (DFARS) clause regarding compliance with export control laws. 75 Fed. Reg. [18030](#) (April 8, 2010).

## FDA EXPORT CERTIFICATES

The FDA has published a request for comments regarding a change in the issuance of FDA export certificates for pharmaceuticals, biologics, and devices. 75 Fed. Reg. [16137](#) (March 31, 2010).

## IN-BOND AND FTZ REPORT

The Department of Homeland Security Office of Inspector General has released a [report](#) recommending that Customs enhance oversight and information systems related to the in-bond, bonded warehouse, and FTZ programs.

## GSP ADDITIONS/REMOVALS

The U.S. International Trade Commission has [released](#) its [assessment](#) of possible modifications to the U.S. Generalized System of Preferences (GSP).

## VESSEL MANIFEST DATA

Importers, consignees, and shippers can now electronically [file](#) confidentiality requests for inward and/or outward vessel manifests. Certifications are valid for two years. All clients should consider measures to ensure the confidentiality of their import/export data. Contact Marshall Miller with questions.

## EXTRADITION

A Hong Kong national, Hok Shek Chan, a.k.a. John Chan, was arrested and [extradited](#) to Massachusetts to face charges of attempting to export 10 instruments used in C-130 military flight simulators from the U.S. If convicted Mr. Chan faces up to ten years in prison, a \$1 million fine, and three years of supervised release.

## NAFTA ORIGIN RULES

Canada Border Service Agency (CBSA) has issued a revised [NAFTA Rules of Origin Memorandum](#) and updated another memo, [NAFTA Specific Rules of Origin](#).

## IMPORT PARAMETERS

Chicago Customs has issued a Pipeline letter on Census inquiries. When importers have an import with data that does not match the expected data for that Harmonized Tariff Schedule (HTS) number, Census will send a Warning Letter to the importer. If the data submitted is incorrect, the importer needs to correct the entry data. Importers that receive a number of these Census warnings may want to complete a new online parameter change request [form](#). Chicago Pipeline [10-10](#) (March 18, 2010).

## CPSC ENFORCEMENT

- The Consumer Product Safety Commission (CPSC) [2009 Annual Report](#) to the President and Congress includes a list of Letters of Advice to importers and manufactures and the resulting 465 voluntary recalls for violating mandatory standards or defective merchandise. In FY 2009 the CPSC settled with 38 companies which paid a total of \$9.8 million in civil penalties.
- The CPSC has issued guidance on civil penalties assessed for violations of the CPSA, CPSIA, FHSA, and FFA. 75 Fed. Reg. [15993](#) (Mar. 31, 2010).

## ATPA

The United States Trade Representative is requesting comments on whether the eligibility requirements of the Andean Trade Preference Act are being met by the designated beneficiary countries. Comments are due by May 12, 2010. 75 Fed. Reg. [19669](#) (April 15, 2010).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 4/15/10		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	274	257
SUBZONES	653	547
PENDING		
ZONES	1	
SUBZONES	28	
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.  
© 2010 Miller & Company P.C.

4929 MAIN STREET  
KANSAS CITY, MO 64112  
816.561.4999  
FAX 816.561.5999  
E-MAIL [intllaw@millerco.com](mailto:intllaw@millerco.com)

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

233 BROADWAY, SUITE 2702  
NEW YORK, NEW YORK 10279