

BRIEFINGS

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e-ALLEGATIONS

As a result of a complaint filed through the Customs e-Allegations online trade violation reporting system, a Tijuana, Mexico businessman has been [sentenced](#) to 70 months in federal prison, ordered to pay more than \$3 million in restitution to the U.S. government, and required to forfeit more than \$4 million in proceeds gained through an illegal transshipment scheme to avoid antidumping duties.

CONTRACT WORKERS

In an advisory opinion letter not yet made public, the BIS has stated that where a company hires a foreign national from a staffing agency, the contracting company, not the staffing agency, is responsible for obtaining any required "deemed export" licenses. Regardless, cooperation between all parties is still important to ensure the new I-129 immigration form is completed properly. The firm has developed a questionnaire for purposes of completing the export control aspects of the I-129 form. Contact Sean Murray with questions.

FTZ REGULATIONS

The period for reply comments on the proposed Foreign-Trade Zones (FTZ) Board Regulations closed on June 27, 2011. Ten (10) reply [comments](#) were received, including comments from the National Association of Foreign-Trade Zones (NAFTZ) and Miller & Company. We do not expect final action by the FTZ Board soon. We expect a Federal Register notice with revised regulations and another opportunity to comment.

2011 TRAINING SEMINARS

Details on the firm's fall 2011 seminar schedule are on our [website](#). The fall sessions include:

- October 18, 2011 - Import/Export 101;
- October 19, 2011 - Import/Export 201 (including Incoterms 2010).

- December 6, 2011—FTZ 101
- December 7, 2011—FTZ 201

The 101 seminars are no charge to clients. More information is available on our website. Register by email to [Penny Freeman](#).

MPF INCREASE and FTA

Recent House and Senate markups of the Korea FTA have included an increase in the Merchandise Processing Fee by more than 50% to .329% - .346%. It appears likely the Obama Administration will include this MPF increase in its implementing legislation for the Korea, Colombia, and Panama [FTAs](#), which may be officially submitted to Congress as early as next week. The MPF would still be capped at \$485 per entry.

C-TPAT PROGRAM

As a reminder, Miller & Company has a comprehensive package for building a supply chain program to participate in the [Customs-Trade Partnership Against Terrorism](#) (C-TPAT). For a flat fee you can obtain a set of processes and forms that will help you qualify for acceptance by Customs. We recently helped a client secure Tier 3 status with numerous identified "best practices." Contact Sean Murray for more information.

EXPORT REFORM

The Bureau of Industry and Security (BIS) has issued its highly anticipated Proposed Rule outlining how items will move from the U.S. Munitions List (USML) to the Commerce Control List (CCL), as well as other changes to overhaul the U.S. export control system. The initial proposed product transfers involve USML Category VII (tanks and military vehicles). Other proposals include: clarifying the definition of "specially designed," making some USML items eligible for license exception STA, and establishing a new "Holding ECCN" for items that need to be controlled but are not yet identified in the CCL. Comments are due by September 13. Contact Chuck Ballard with questions. 76 Fed. Reg. [41958](#) (July 15, 2011).

FTZ ISSUES

There are a significant number of open Customs issues impacting FTZs that require immediate action: multiple versus single FIRMS codes, potential elimination of the Blanket CBPF 216, Remote Location Filing for "06" entries, as well as multiple e-214, e-PTT, and ACE automation programming issues. Contact Marshall Miller or Linda King with questions.

INDIVIDUAL BIS FINE

Curtis Hickcox, a former employee of PPG Industries, was fined \$500,000, denied [export privileges](#) for 15 years, and required to attend an export compliance course for conspiring to hide shipments of paint and paint thinner to a Pakistani nuclear facility from the PPG export compliance department.

HTS CHANGES FOR TOYS

Effective July 1, the HTSUS has been revised for certain [Chapter 95](#) toys, including a new Statistical Note in Heading 9503, allowing for classification according to the youngest age for which the product is intended.

BIS

- The Bureau of Industry and Security (BIS) has raised the Adjusted Peak Performance (APP) level for digital computers of Export Control Classification Number 4A003.b. 76 Fed Reg. [36986](#) (June 24, 2011).

- The BIS has also issued a Proposed Rule to reduce the concentration of chemical mixtures subject to the Chemical Weapons Convention Regulations. Comments are due August 12. 76 Fed. Reg. [41366](#) (July 13, 2011).

PARTS CLASSIFICATION

The Court of International Trade (CIT) has issued a new decision on parts classification where it applied two tests to determine whether goods are as a "part" of an article: (1) the [Willoughby](#) test, which asks if the article cannot function without the claimed part, and (2) the [Pompeo](#) test that requires that the claimed part, as imported, be dedicated solely for use in the article and, when applied to that use, the part meets the [Willoughby](#) test. [The Pomeroy Collection, Ltd., v. U.S., CIT Slip Op 11-78](#) (July 6, 2011).

SOUTH SUDAN

The new nation of South Sudan has been added to BIS export controls. 76 Fed. Reg. [41046](#) (July 13, 2011).

RETURN OF DSP-5s

The Directorate of Defense Trade Controls (DDTC) has issued a Proposed Rule to eliminate the requirement to return DSP-5 licenses issued and decremented electronically after they expire or are exhausted. Comments are due by August 29. 76 Fed. Reg. [41440](#) (July 14, 2011).

ISF

- New Importer Security Filing (ISF) capabilities were deployed via ACE on July 13, 2011, including providing importer access through ACE to ISF progress reports, and allowing importers who file 12 or fewer ISF transactions per year to file and track directly via the ACE portal.

- On June 18, 2011 Customs began issuing rejections for Importer Security Filing edits relating to bond and carnet data. CSMS [#11-000130](#) (June 16, 2011).

NEW LIBYA REGULATIONS

The Office of Foreign Assets Control (OFAC) has issued new Libyan Sanction Regulations to codify [Executive Order 13566](#). A new [General License 1B](#) on financial transactions was issued on June 21. 76 Fed. Reg. [38562](#) (July 1, 2011).

FDA UPDATES

- The FDA has created the "[Division of Supply Chain Security](#)" to serve as the agency's focal point for the integrity and security of imported finished drugs and their components.

- Chicago Customs has issued a Pipeline updating the procedures to follow for responding to CBP Form 4647 Notices to Mark or Redeliver. Chicago Pipeline [11-09](#) (July 1, 2011).

ISA

Customs has revised its Importer Self-Assessment (ISA) [Memorandum of Understanding](#) (MOU) used by importers to request participation in the ISA program. Companies considering ISA participation need to consider the revised terms.

EU DUAL-USE EXPORTS

The European Union (EU) is seeking comments by October 31 on a [proposal](#) for regulating dual-use products. The U.S. State Department has published a list of the EU's [dual-use](#) goods and technology.

POST-ENTRY CORRECTIONS

- While Customs deployed Post Summary Correction (PSC) functionality in ACE for trade participants on June 4, the formal commencement date on the National Customs Automation Program (NCAP) test that allows importers to use ABI to file post summary corrections of certain (01 and 03 Entry Types) pre-liquidated ACE entry summaries, is July 25.

- Customs has published a General Notice announcing modifications of the Post Entry Amendment (PEA) program. PEAs will no longer be accepted for ACE Summaries effective September 22, 2011. Any cash deposits (or bond, if allowed) required by antidumping/countervailing duty PEAs are due with the PEA. PEAs still should not be used as means of submitting Prior Disclosures. The PEA test program is further extended for a three year period. 76 Fed. Reg. [37136](#) (June 24, 2011).

- Customs has posted a message clarifying the handling of 19 U.S.C. 1520(d) post-importation preference claims that include a classification change. The tariff change should be presented as a PEA or PSC in ACE simultaneously with the 1520(d) submission. CSMS [#11-000142](#) (June 23, 2011).

AES HTS CHANGES

Changes has been made to [Appendix E](#) in the Automated Export System Trade Interface requirements (AESTIR) relating to Harmonized Tariff Schedule numbers that cannot be used with the Automated Export System (AES).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/11		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	276	259
SUBZONES	675	528
PENDING		
ZONES	2	
SUBZONES	21	
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.
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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