

BRIEFINGS

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CUSTOMS FTZ MANUAL

Customs gave its final sign-off to the new Customs Foreign Trade Zone Manual on July 26, 2011. A [copy](#) of it is posted on the Customs website. There are many changes in the new version. The firm is preparing a detailed analysis. Contact Marshall Miller to request a copy.

FTZ INDICTMENT

U.S. Immigration and Customs Enforcement (ICE) has [indicted](#) the Operator of a general-purpose foreign-trade zone warehouse in the City of Industry in California and eight other individuals for illegally importing and admitting to the zone nearly 200 shipments of Chinese-made apparel and improperly avoiding \$2-\$4 million in duties through various alleged schemes.

FTAs ON HOLD/MPF INCREASE

- The debt talk stalemate stalled the movement of the Colombia, South Korea, and Panama Free Trade Agreements (FTAs) because many of the same individuals at the White House that are involved in the FTA discussions were part of the debt deal negotiations.

- The United States Trade Representative (USTR) recently announced that the Obama Administration and Congress have reached a "framework" agreement that will allow Congress to renew the Trade Adjustment Assistance (TAA) with the three pending FTAs. It is now expected that the FTAs will be officially sent from the White House to Congress in September.

- Draft versions continue to include an increase in MPF rate, but retaining the per entry cap of \$485.

NAFTZ ANNUAL CONFERENCE

Please join us for a private reception for our clients on Monday, September 12 from 7:00pm to 8:30pm during the NAFTA Annual Conference. RSVP to [Penny Freeman](#) by September 2.

2011 TRAINING SEMINARS

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

- 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. There is a fee for non-clients. Register by email to [Penny Freeman](#).

FTZ EXPORTS

Noting an issue with the incomplete Census reporting of FTZ exports, the U.S. Census Bureau has posted a note on its blog that stresses the need for providing complete information for exports in the FTZ identifier field in the Automated Export System (AES).

QX/WX AIR IN-BOND

Some issues have been discovered with QX/WX Air In-Bond, which was to become available on August 8, 2011. A CSMS message will be issued with the new implementation date as soon as it has been determined. Contact Linda King with questions. CSMS [#11-000179](#) (August 10, 2011).

BIS UPDATE

The Bureau of Industry and Security (BIS) held its annual conference on July 19-21 in Washington D.C. Noteworthy pronouncements include:

- Investigations will increase focus on individuals, rather than just on companies.

- Both the Directorate of Defense Trade Controls (DDTC) and the BIS indicated a high [percentage of unfavorable post-shipment verifications](#) and other end-user checks. 24% of BIS post-shipment verifications were unfavorable and 21% for DDTC. As a result, both agencies plan to increase the number of post-shipment verifications.

- The BIS explained the July 15 Federal Register notice (76 Fed. Reg. [41958](#)) on moving products from the U.S. Munitions List (USML) to the Commerce Control List (CCL). Parts and components will likely move en masse once agreement is reached on the definition of "specially designed." The CCL will have a new "600" series that will encompass many of the migrated USML parts.

- Handouts from the BIS [Update are available online](#).

CBP FORM I-94

Customs is requesting comments on an already-existing information collection that proposes adding the data element "Country of Birth" to CBP Form I-94 (Arrival/Departure Record), CBP Form I-94W (Nonimmigrant Visa Waiver Arrival/Departure), and the Electronic System for Travel Authorization (ESTA). Comments are due by August 24. 76 Fed. Reg. [44349](#) (July 25, 2011).

IMPORTER ID THEFT

In a case involving importer identity theft, the Court of International Trade (CIT) has decided that the importer identified on the entry papers was authorized to file a protest despite not being the "actual importer." This case highlights the need for importers to review Customs entry data on a regular basis. Contact Brenda Zeller with questions on trade data requests. Kairali Decan, Inc. v. U.S., CIT Slip Op. [11-99](#) (Aug. 10, 2011).

MADE IN CHINA

A recent press report describes origin marking issues that can and do occur for many companies. The St. Louis Post Dispatch has [reported](#) that the State of Missouri's Department of Economic Development ordered promotional items to distribute at the state fair. When the items arrived, someone noticed "Made in China" origin labels and had volunteers remove the labels. Companies can unintentionally remove origin markings by re-boxing or re-labeling imported merchandise. This story emphasizes the need for all companies in a supply chain to fully understand origin marking requirements, both before purchase decisions and after importation.

MACHINERY CLASSIFICATION

In National Presto Industries, Inc. v. U.S., the Court of International Trade (CIT) ruled that a diaper-making machine is properly classified as HTS Heading 8441 machinery for making paper pulp (0%) rather than as Heading 8479 other machines (2.5%). The CIT ruled that Heading 8441 specifically instructs the reader to consider the purpose for which the machine is used; here, diapers made of paper pulp. CIT Slip Op. [11-84](#) (July 18, 2011).

BALL & ROLLER BEARINGS

Customs has issued a new [Informed Compliance](#) Publication on Ball Bearings, Roller Bearings and parts thereof.

ROYALTIES GUIDANCE

The World Customs Organization ("WCO") has released Commentary [25.1](#), which addresses the dutiability of royalty or license fee payments made to a party unrelated to the seller. The commentary emphasizes that the answer ultimately depends on whether there is any linkage between the sales and license agreements. A number of specific factors, consistent with previous U.S. advice, are cited. Contact Sean Murray or Tom Lobred with questions.

ITAR 3rd COUNTRY WORKERS

The Directorate of Defense Trade Controls (DDTC) has issued a Final Rule on the International Traffic in Arms Regulations (ITAR), effective August 15, to allow the transfer of ITAR technical data to third country nationals without approval by DDTC when:

- The transfer takes place to an employee of a party on an approved hardware license;
- The transfer occurs within the end-user's country; and
- The end-user has procedures in place that address diversion of defense articles. Contact Chuck Ballard with questions. 76 Fed. Reg. [28174](#) (May 16, 2011).

BUSINESS CARDS

Modifying a prior New York ruling, Customs Headquarters has ruled in H101588 that business cards need not be marked with their country of origin when they are sold to the U.S. ultimate purchasers in containers properly marked with the origin of the cards, but must be individually marked when sold to distributors for resale. 45 Cust. B & Dec. [19](#) (Aug. 3, 2011).

NEW IPR WEBSITE

ICE has announced a new website for the National Intellectual Property Coordination Center that includes news releases, published reports, and electronic forms for individuals and entities to report intellectual property rights violations.

9/11 COMMISSION REPORT

The Department of Homeland Security (DHS) recently released its 2011 [report](#) on progress made in securing the nation from terrorism since the September 11, 2001 attacks.

NEXT BROKER EXAM

The next Customs broker [exam](#) is scheduled for October 3, 2011. Applications are due September 2.

EXPORT ENFORCEMENT

- Swiss Technology of New Jersey has [pled](#) guilty to exporting U.S. defense technology to China without a license. It subcontracted manufacturing under a U.S. Department of Defense (DoD) contract to a Chinese company. Swiss Technology has agreed to repay \$1.15 million for losses caused by its actions and will likely pay an additional amount at sentencing in November. They have also been debarred from participating in DoD contracts.
- Mr. Jianwei Ding has settled charges for his role in exporting controlled carbon fibers to China without obtaining a required export license. Mr. Ding is paying a \$100,000 fine and agreeing to the removal of his export privileges for 25 years. 76 Fed. Reg. [47144](#) (August 4, 2011).
- The BIS has [announced](#) the arrest of a Dutch citizen and former manager of a Dutch freight-forwarding company for hiding the nature of aircraft parts, peroxide, and other materials he allegedly exported to the Iranian military.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/11		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	277	260
SUBZONES	677	529
	PENDING	
ZONES	2	
SUBZONES	19	
MISCELLANEOUS	33	
	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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