

# BRIEFINGS

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## IMPORT/EXPORT REVIEW

One of our major long term clients recently set aside a day where a senior corporate officer and the company's import/export compliance coordinator spent a day at our offices reviewing all aspects of their current import/export compliance program. This process of stepping back from daily crises and gaining perspective was very useful for all parties. We encourage our clients to adopt a similar yearly meeting.

## LACEY ACT DEVELOPMENTS

- Gibson Guitar has entered into a criminal [enforcement agreement](#) with the U.S. Department of Justice, acknowledging it failed to act on information that wood was being imported from Madagascar in violation of the Lacey Act. In exchange for a deferral of prosecution, the company agreed to pay a fine and a community service payment totaling \$350,000, to withdraw claims to over \$250,000 of seized wood, and to implement a strengthened compliance program.
- The House [cancelled](#) a vote on H.R. 3210, a Lacey Act reform bill, due to opposition from the domestic forestry industry.

## CORPORATE COMPLIANCE

Customs has issued a ruling providing a new twist on corporate Customs compliance activities under its "Customs business" restrictions. The new ruling allows Customs compliance managers to conduct corporate compliance activities for sister companies or affiliates, but only during non-concurrent hours and if they are employees of the multiple entities. [HQ H135698](#) (July 3, 2012).

## MILLER & COMPANY P.C. NAFTZ RECEPTION

Join us for a private reception presented exclusively for our clients during the 40th NAFTA Annual Seminar/Conference & Exposition on September 10, 2012. We will provide current information on a wide range of foreign-trade zone, import/export, and trade security topics.

### WEBINARS

Upcoming webinars include:

- August 16 – Carnets
- August 23 - Deemed Exports / Certifying I-29s
- August 30 - PO Terms & Conditions for Import/Export
- September 6 – FTZ Use for Production Equipment

### SEMINARS

Upcoming firm seminars include:

- October 9 - Import/Export 101
- October 10 - Advanced Import/Export 201
- November 13 - FTZ 101
- November 14 - Advanced FTZ 201

Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#) or visit our [website](#).

## CUSTOMS CONSPIRACY RING

A criminal complaint unsealed on July 25, 2012 by the U.S. Attorney's Office in San Diego indicated that 8 people, including the President of the San Diego Customs Association, have been [charged](#) with conspiracy and Customs fraud for using the in-bond program to move \$100 million in cigarettes, apparel, and food products without ever exporting them to avoid approximately \$10 million in duty payments. [U.S. v. Chavez](#); Complaint No. 12MJ2756 (S.D. Ca. July 23, 2012).

## NEW IRAN SANCTIONS BILL

- Congress passed a new [Iran Sanctions Bill](#) on August 1. The new bill, which President Obama is expected to sign, would subject foreign subsidiaries of U.S. companies to the same U.S. sanctions as their U.S. parents, without regard to their home country laws on trade with Iran. The new law is expected to go into force 60 days after the President signs the legislation.
- President Obama has issued a new [Executive Order](#) on July 31 that authorized the Office of Foreign Asset Controls (OFAC) to issue controls on financial institutions that intentionally conduct or facilitate financial transactions with the National Iranian Oil Company or Naftiran Intertrade Company for the purchase of Iranian petroleum or related products. Two financial institutions were immediately sanctioned: Bank of Kunlun in China and Elaf Islamic Bank in Iraq. 77 Fed. Reg. [45897](#) (Aug. 2, 2012).

## CUSTOMS GAO REPORT

Unidentified senior Customs officials have indicated that the Government Accountability Office (GAO) has been writing up Customs ports for not following regulations "to the letter." As a result, Customs officials have indicated that flexibility that has been provided in the past, sometimes for decades, may no longer be provided.

## U.S.-PANAMA FTA

According to Panama's ambassador to the United States, implementation of the U.S.-Panama Free Trade Agreement is expected to take effect October 1, 2012.

## BIS UPDATE

- Kevin Wolf, the Assistant Secretary of Commerce for Export Administration, indicated at the Bureau of Industry and Security (BIS) Annual Update meeting July 17 that the first congressional notification of items moving from the USML to the CCL could be made by September. Aircraft and related parts are expected to be the first to move.

- Paul Newman, Chief of Census Automated Export System (AES) Branch, said that among the AES changes being worked on are error notifications during the AES completion process, and the ability to save in-process AES records. Omari Wooden, Census Trade Ombudsman, indicated that the "D" or "F" for domestic or foreign would remain and that the actual country of origin would not be required as was indicated in the Proposed Rule. However, the ultimate end user would be required to be submitted in the AES record, although "unknown" would be accepted.

- Customs indicated at the BIS Annual Update in July that the AES will eventually move to the Customs Automated Commercial Environment (ACE). Having AES on the ACE platform could give Customs greater visibility into the filings and increase enforcement. Customs also plans to redo its manifest system to include exports. No word yet on when the AES transition might take place, but manifest system tests are already occurring at several southeastern ports.

## BURMA

- OFAC has issued General Licenses (GL) 15, 16, 17 and 14-C to remove some of the sanctions on Burma. Many still remain. 77 Fed. Reg. [47924](#) (Aug. 10, 2012).

- The President has signed [H.R. 5986](#), which renews most of the Burma import sanctions, and separately extends the third country fabric provisions of the African Growth and Opportunity Act (AGOA) and adds South Sudan as an AGOA member.

## TPP/CANADA AND MEXICO

The U.S. International Trade Commission (USITC) is seeking comments by September 19 on a U.S. free trade agreement with members of the Trans-Pacific Partnership (TPP), including Canada and Mexico. 77 Fed. Reg. [47880](#) (Aug. 10, 2012).

## ITA WISH LIST

The USITC is seeking public comments on possible additions to the World Trade Organization Information Technology Agreement. Comments are due by September 6 for Investigation No. [332-532](#) (Part 1) and November 2 for Investigation No. [332-536](#) (Part 2). 77 Fed. Reg. [48169](#) (Aug. 13, 2012).

## 2012 GSP ANNUAL REVIEW

The deadline for submissions of product petitions for the 2012 Annual GSP review is October 5. Petitions requesting competitive need limitation (CNL) waivers must be received by November 21. 77 Fed. Reg. [44704](#) (July 30, 2012).

## MPF INCREASE

Customs has indicated that on June 11 it started retroactively billing importers for increased MPF (.3464%) that was not billed at entry. However, it also advised that some pre-October 1, 2011 entries had been billed in error. Customs bills should be reviewed to ensure they are correct. If Customs does not correct an erroneous billing, it is protestable. CSMS [12-000275](#) (July 17, 2012).

## DIAMOND TRADE

Customs has issued a Proposed Rule on the importation and exportation of rough diamonds. Comments are due October 15, 2012. 77 Fed. Reg. [48918](#) (Aug. 15, 2012).

## 2012 C-TPAT CONFERENCE

Customs has [announced](#) that it will NOT be holding its 2012 C-TPAT Conference in September due to scheduling and logistics challenges, but will be re-scheduling for a later date.

## IN-BOND CHANGES

Due to an expected significant impact on small businesses, Customs has opened up a new comment period to accept comments until August 27 on its Initial Regulatory Flexibility Analysis (IRFA) on proposed changes to the in-bond process. Customs is still analyzing the detailed comments submitted in response to its Proposed Rule, but indicated that this notice will not delay its preparation of the Final Rule. Clients are encouraged to use this opportunity to file additional comments. 77 Fed. Reg. [43740](#) (July 26, 2012).

## SIMPLIFIED ENTRY

Customs is opening up the Simplified Entry pilot to more than nine participants and is no longer considering C-TPAT status unless the importer is a self-filer. Customs will accept new applicants on a first come, first served basis. [Applications](#) must be sent via email to Customs by August 28. 77 Fed. Reg. [48527](#) (Aug. 14, 2012).

## PETROLEUM REFINERIES

Customs is seeking comments by October 9 on existing information collection requirements for petroleum refineries in foreign-trade subzones. 77 Fed. Reg. [47429](#) (Aug. 8, 2012).

## CENSUS EXPORTER TOOLS

Census has posted an ["Exporter's Toolkit"](#) to help small businesses export. It contains much useful information, including a [Free Trade Agreement \(FTA\) Tariff Tool](#) that allows users to see the current and future tariff rates.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/12		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	279	262
SUBZONES	688	535
PENDING		
ZONES	6	
SUBZONES	15	
MISCELLANEOUS	61	
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](mailto:intllaw@millerco.com)

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

233 BROADWAY, SUITE 2702  
NEW YORK, NEW YORK 10279