

BRIEFINGS

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FOREIGN NATIONALS

Companies should review their internal controls over technology provided to all non-U.S. person employees, including those in the U.S. A “deemed export” does not require the physical export of anything. It is essential to have proper vetting, a Technology Control Plan in place, and, if required, the proper export license obtained. If International Traffic in Arms Regulations (ITAR) information is being shared, a license is almost always required, regardless of the non-U.S. employee’s nationality. For questions, please contact either Sean Murray or Chuck Ballard.

CEE TEST PILOT

- Customs has announced a general test of how the first four Centers for Excellence and Expertise (CEE) will operate, with decision-making authority including validation activities, Post Entry Amendments and Post Summary Corrections, and fixing final appraisement, classification, and duty rates. Importers wishing to volunteer for this pilot must submit applications by September 27, 2012. 77 Fed. Reg. [52048](#) (Aug. 28, 2012). Clients are encouraged to discuss “volunteering” with Marshall Miller or Sean Murray.
- Customs has issued CEE [Test Guidelines](#) delineating the responsibilities and procedures for participants.
- Customs opened the [Automotive and Aerospace](#) CEE in Detroit on September 6, 2012. The fourth CEE, Petroleum, Natural Gas and Minerals Center, is expected to open in Houston by the end of September.

WEBINARS

Upcoming webinars include:

- September 20 - AES Management & Guidelines
- September 27 - Managing Hand Carries of Merchandise
- October 4 - Exporters Shippers Letters of Instruction

All previous webinars are available at our [eStore](#).

SEMINARS

There are a few remaining seats for the October 9-10 Import/Export 101/201 seminar. Other seminars include:

- November 13 - FTZ 101
- November 14 - Advanced FTZ 201

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

REVISED ICP ON IITs

Customs has [issued](#) a new Informed Compliance Publication on Instruments of International Traffic (IITs). Examples of IITs include vehicles, containers, pallets, and substantial reusable containers used in significant numbers in international traffic. IITs that fall out of international traffic use are subject to entry and duty payment, so they must be tracked. Contact Brian Murphy with questions.

FTZ REPORT

The Congressional Research Service has issued a detailed analysis of the FTZ program. While parts are generally accurate as [acknowledged](#) by the NAFTAZ, the NAFTAZ has objected to stated concerns in the Report regarding potential for injury to competing domestic producers by the FTZ program. CRS [7-5700](#) (Sept. 5, 2012).

CONFLICT MINERALS RULE

The Securities and Exchange Commission (SEC) has published the Final Rule mandated by the Dodd-Frank Act relating to “conflict minerals.” It requires U.S. and foreign manufacturers of certain goods to disclose whether their merchandise contains minerals acquired from the Congo or adjoining countries. Retailers without direct control of the manufacture are exempt from the disclosure and reporting requirements. The SEC reporting requirement begins November 13, 2012. 77 Fed. Reg. [56274](#) (Sept. 12, 2012).

NAFTZ

- Foreign Trade Zones (FTZ) Board and Customs Regulations were the main focus of the 2012 National Association of Foreign Trade Zones (NAFTZ) Conference held September 9-12 in San Diego. Office of Regulations & Rulings is reviewing proposed changes to 19 C.F.R. Part 146 and working to publish a Proposed Rule. Customs is currently reviewing comments on its Proposed Rule for new In-Bond regulations, and the Executive Secretary of the FTZ Board provided information on the FTZ Board’s new regulations that went into effect April 30, 2012.
- FTZ operators who do not belong to the [NAFTZ](#) should consider joining for 2013. The NAFTAZ needs the direct engagement of all the firms that benefit from the program. There is not a more important year for the program because the total rewrite of the Customs FTZ regulations is the first since 1986.

USPS/CUSTOMS DEC FORMS

Effective November 5, the United States Postal Service will require that Customs data be electronically transmitted for international mail bearing a Customs declaration form when the items are paid with a permit imprint established through an Advance Deposit Account with the USPS. Comments must be received by September 24, 2012. 77 Fed. Reg. [50932](#) (Aug. 23, 2012).

EXPORT PENALTIES

- [Global Metcorp LLC](#) was fined \$50,000 for shipping scrap EAR99 steel to a company on the entity list in Pakistan. All but \$10,000 of the penalty was suspended, provided Global Metcorp's president attends export compliance training within the next year.
- GR-Duratech, recently fined \$402,000 for facilitating exports to Iran, [appealed](#) its penalty indicating the fine would put them out of business. The Office of Foreign Asset Controls (OFAC), however, has indicated that GR-Duratech did not provide convincing evidence that it could not pay the fine.

FRAUDULENT INVOICING

A Hong Kong-based jewelry exporter has [pleaded](#) guilty to submitting false invoices and emailing the true invoice to the U.S. purchaser. The company was ordered to pay \$800,000 in criminal fines and over \$1 million in restitution.

WTO UPDATES

- Russia became an [official member](#) of the World Trade Organization (WTO) on August 22, but the U.S. has yet to pass implementing legislation. In addition, Russia has not yet become a party to the Information Technology Agreement.
- The Office of the United States Trade Representative (USTR) is requesting comments on China's compliance with WTO commitments. Comments are due September 24, 2012. 77 Fed. Reg. [50206](#) (June 20, 2012).

FDA DEVICE REGISTRATIONS

The Food & Drug Administration (FDA) has published amendments to its device registration and listing requirements that will require, among other changes, registration of contract manufacturers, initial importers to identify the device manufacturer, and foreign establishments to identify all known U.S. importers of their devices. The Final Rule also eliminates the exemption for foreign establishments whose devices enter a foreign-trade zone (FTZ) and are re-exported without entering U.S. commerce. The Final Rule is effective October 1, 2012. 77 Fed. Reg. [45927](#) (Aug. 2, 2012).

MOTOROLA TRADE SECRETS

A suburban Chicago woman and former Motorola software engineer, Hanjuan Jin, was recently [sentenced](#) to four years in prison for stealing Motorola trade secrets. In 2007, Jin was secretly working for a Chinese telecommunications company when she was stopped by U.S. Customs officials at O'Hare International Airport on her way to China via a one-way ticket. More than 1,000 electronic and paper Motorola documents were seized.

NAFTA REFRIGERANT GAS

Customs has issued a proposed modification to ruling NY N161355 to provide that refrigerant gas from unknown countries recovered in Canada from used refrigeration equipment has undergone disassembly, qualifying it for NAFTA duty free treatment. 46 Cust. B. & Dec. [23](#) (Aug. 22, 2012).

§ 1592 CUSTOMS PENALTIES

In a noteworthy 19 U.S.C. § 1592 penalty case, the Court of International Trade (CIT) has ruled in [U.S. v. Active Frontier International, Inc.](#) that the definition of "materiality" in the Customs Penalty Guidelines is at odds with the statutory purpose in deeming any false statement of origin to be "material." CIT Slip Op. [12-112](#) (Aug. 30, 2012).

SIMPLIFIED ENTRY PILOT

Customs has [announced](#) the expansion of the Simplified Entry Pilot for air cargo to selected airports in California and Texas, Miami International, Newark, New York/JFK and Boston. Customs hopes to expand the pilot functionality by adding other capabilities, including Participating Government Agency message sets and Remote Location Filing. Customs has also updated its [overview](#) of the pilot.

BEARINGS

Customs has [proposed](#) a modification of NY N070076, in which Customs classified bearing housings comprised of steel balls and sapphire plate under HTSUS Heading 7116, as articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed). Customs intends to reclassify the pivot bearings in HTSUS subheading 8482.10.5068 and the housings will remain classified in subheading 8483.30.8020. Comments are due September 28, 2012. 46 Cust. B & Dec. [44](#) (Aug. 29, 2012).

AD/CVD PROCEEDINGS

The U.S. International Trade Administration has [released](#) the second phase of its electronic document filing system for antidumping (AD) and countervailing duty (CVD) proceedings. The Centralized Electronic Service System's (IA ACCESS) second release allows general public online access to all public versions of documents from August 2011.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 9/15/12		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	279	262
SUBZONES	688	535
PENDING		
ZONES		6
SUBZONES		16
MISCELLANEOUS		53
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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