

ATTORNEYS AT LAW

ROUTING SLIP

# BRIEFINGS

## ISF UPDATES

- The January 26, 2010 enforcement of Importer Security Filing (ISF or "10+2") requirements draws near. Procedures should be in place and ISF records should be obtained and reviewed. Contact Marshall Miller with questions.
- Customs has recently issued three CSMS messages on ISF: ISF progress reports; new Bill of Lading matching logic; and changes to some unified ISF (i.e., ISF and entry) transaction sets - including Summary/ISF, Cargo Release/ISF, and FTZ/ISF - that will result in rejects beginning mid-December 2009. [CSMS #09-000336](#) (Progress Reports); [CSMS #09-000327](#) (matching logic); and [CSMS #09-000350](#) (data sets).

## SAMPLING RULE

Customs has issued a Proposed Rule that amends the Customs Regulations to explicitly allow use of sampling methods in Customs audits and Prior Disclosures, and provides guidance for offsetting over-payments and over-declarations. Customs will have sole discretion whether to accept the sampling methodology and may still conduct full entry-by-entry audits if it deems it necessary. Clients are reminded that sampling methodologies will still not substitute for a complete and correct understanding of the issues. Comments are due Dec. 21, 2009. 74 Fed. Reg. [53964](#) (Oct. 21, 2009).

## Remaining 2009 Seminar

- Our client-only, free FTZ 101 seminar scheduled for December 8-9, 2009 is full, but clients can e-mail [Penny Freeman](#) for a spot on the waiting list. There are sometimes last minute cancellations.
- We are currently planning our 2010 seminar schedule. Dates will be announced in December Briefings and posted on our website.

## NEW OFAC GUIDELINES

The U.S. Treasury Office of Foreign Assets Control (OFAC) has published a Final Rule detailing its Economic Sanctions Enforcement Guidelines. 74 Fed. Reg. [57593](#) (Nov. 9, 2009).

## TRADE BILL PROGRESS

The Senate Finance Committee has requested [comments](#) by December 4, 2009 on miscellaneous duty suspension bills. Expect action in mid-2010.

## DECEMBER 31 EXPIRATIONS

Many temporary duty suspensions and some special trade programs (GSP, ATPD, and ATPDEA) are scheduled for expiration on December 31. Congress has included renewal of the special trade programs in the Miscellaneous Trade Bill, but it may not be passed into law by December 31. Clients should consider expediting Customs entries before year-end to preserve current duty rates.

## IMPORT/EXPORT ANALYSIS

- In your planning process for 2010, we encourage you to budget for the 2009 importer/exporter activity data analyses. Customs, Census, and other government agencies have stepped up their compliance efforts. Analysis of these records is one of the best methods to identify compliance concerns. To get your 2009 data and analysis as quickly as possible in 2010, please notify [Marshall Miller](#) or [Brenda Zeller](#).

- Clients often inquire as to the importance of ordering importer activity data from both the Office of Strategic Trade (OST) and the National Finance Center (NFC). Recently, had we not ordered both sets of data for a Company, 80% of the entries filed would have been invisible because the Company's IOR was listed only as the ultimate consignee.

## FDA

- The roll-outs of PREDICT and ITACS, the new Food and Drug Administration (FDA) import management systems, have been delayed. PREDICT is now expected in December 2009 and ITACS may not be rolled out simultaneously. The FDA maintains a PREDICT [website](#), which includes outreach events being held around the country.
- The FDA has updated product codes for biological products, adding over 100 new codes and end-dating over 200. [CSMS #09-000337](#) (Oct. 30, 2009).

## TPP

President Obama [announced](#) on November 14 that the U.S. will enter into negotiations with the Trans-Pacific Partnership countries of Singapore, Chile, New Zealand, Brunei, Australia, Peru, and Vietnam on a regional economic integration agreement. This would expand on existing U.S. trade programs with Singapore, Chile, Australia, and Peru.

## DHS

The DHS appropriations bill ([H.R. 2892](#)) was signed into law on October 28, 2009 by President Obama. Highlights of the bill include funding for 50 additional CBP Officers and 10 staff positions, \$40 million less for CBP automation funding than was included in the House and Senate bills, and direction to improve AD/CVD administration.

## ITDS REDUX

The Treasury Department International Trade Data System (ITDS) annual [report](#) reveals continued problems with ITDS development and the goal of "one-window" Other Government Agency interfaces:

- Due to low funding, focus will be placed on implementing functionality. The utilization of commercial importer and product ID systems, such as DUNS for importer identification and UPC for product classification codes, is being considered.
- Due to delays in the ACE Vessel and Rail Manifest Release (M1 Release), scheduled ITDS functionality has not been delivered, causing some agencies to consider using their own systems for collecting import data.

## CONTINUOUS BONDS

Customs recently [announced](#) a change to its notification process for continuous bond submissions. Approved copies will no longer be faxed to the bond filer; copies will be mailed to the surety and the bond principal. The trade community can access continuous bond information through the ACE portal.

## FDA PRIOR NOTICE

Customs has issued an administrative message on Automated Commercial System (ACS) programming changes required for implementing the FDA's May 2009 Final Rule on Prior Notice of imported food. The planned date for implementation is January 13, 2010. [CSMS #09-000338](#) (Oct. 30, 2009).

## ITA FORM 362P

Customs has issued an administrative message stating that entries under the duty articles for the handicapped 9817.00.96 provision may not utilize Electronic Invoice Program (EIP) and Remote Location Filing (RLF), and require a paper copy of the International Trade Administration Form 362P form for release. This is not consistent with some port practices. Contact Sean Murray with questions. [CSMS #09-000343](#) (Nov. 4, 2009).

## CHINA TRADE DISPUTES

- The [U.S.](#), joined by the [European Union](#) and Mexico, [requested](#) the establishment of a World Trade Organization (WTO) dispute settlement panel on China's export restraints on numerous raw materials.
- China has initiated an antidumping/countervailing duty investigation against U.S. automakers in part for funding received through the Troubled Asset Relief Program (TARP) and the Cash for Clunkers program.

## GSP MODS

- The U.S. International Trade Commission (USITC) has opened an investigation into possible modifications to the Generalized System of Preferences (GSP). The deadline for written submissions is November 19, 2009. 74 Fed. Reg. [55067](#) (Oct. 26, 2009).
- The deadline for filing petitions requesting Competitive Need Limitation waivers for the 2009 GSP annual review is November 17, 2009. 74 Fed. Reg. [56908](#) (Nov. 3, 2009).

## IPR ENFORCEMENT

- Customs has posted a new [Informed Compliance Publication \(ICP\)](#) on its Intellectual Property Rights (IPR) enforcement.
- Customs has established a new Continuous [Bond](#) for IPR owners to cover IPR sample transactions across all ports of entry. Customs has posted a template on its web site.

## MTCR ADDITIONS TO EAR

The Bureau of Industry and Security (BIS) published a Final Rule amending the Export Administration Regulations to accommodate changes made to the Missile Technology Control Regime (MTCR) Annex that were made at the November 2008 international MTCR Plenary. 74 Fed. Reg. [57581](#) (Nov. 9, 2009).

## ENCRYPTION EXPORTS

The BIS has adopted a Final Rule that aims to simplify the rules regarding the export of "encryption items." 74 Fed. Reg. [52880](#) (Oct. 15, 2009). Technical corrections to the Final Rule have also been issued. 74 Fed. Reg. [57061](#) (Nov. 4, 2009).

## BIS CWC COMMENTS

BIS is seeking public comment on how implementation of the Chemical Weapons Convention and regulations impacts commercial activities involving Schedule 1 chemicals. Comments are due by December 10, 2009. 74 Fed. Reg. [58003](#) (Nov. 10, 2009).

## CUSTOMS BROKER EXAM

Customs has posted the October 2009 Broker's [exam](#) and [answer key](#) to its web site. The pass rate was 6.9%, down from 11.4% in April 2009.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/09		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	273	256
SUBZONES	645	540
PENDING		
ZONES		1
SUBZONES		24
MISCELLANEOUS		26
AVERAGE PROCESSING TIME (MONTHS)		
ZONES		8
SUBZONES		10