

# BRIEFINGS

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## EXPORT CENTER

On November 9, 2011, President Obama issued Executive Order 13558 establishing the Export Coordination and Enforcement Center (ECEC) under DHS with the purpose of coordinating the enforcement activities of all government agencies with enforcement authority. The ECEC will coordinate the sharing of enforcement information between agencies to better identify, capture, and prosecute violations. 75 Fed. Reg. [69573](#) (Nov. 15, 2010).

## MTB

- The U.S. Trade Representative (USTR) has objected to the inclusion of duty suspensions for certain textiles and footwear, in a Miscellaneous Trade Bill (MTB) that may be considered by the current lame duck Congress. The USTR believes MTBs should not reduce duty on finished products, saying trade preference program negotiations could be affected. Industry groups point out there were no objections from the domestic industry.
- Several issues involving temporary duty suspension bills have recently been raised by clients. Clients are encouraged to carefully consider use of these provisions. Contact Brian Murphy with questions.
- The extension of the Generalized System of Preferences (GSP) and the Andean Trade Preference Act/Andean Trade Promotion and Drug Eradication Act (ATPA/ATPDEA) that expire on December 31, 2010 may occur. The House and Senate are discussing extensions.

## WINTER SEMINARS

We have two remaining seminars scheduled for 2010:

- Dec. 7, 2010 - FTZ 101
- Dec. 8, 2010 - FTZ 201

More information is available on our website. Register by email to [Penny Freeman](#).

## CUSTOMS UPDATE

- In a [speech](#) to the Western Cargo Conference, Customs Commissioner Alan Bersin said he believes participation in trusted shipper programs, Customs account management, Automated Commercial Environment (ACE), better aligned port processing, and pre-inspection of goods before they reach U.S. borders will facilitate trade and improve border security.
- At the same conference Customs restated its "common sense" approach to ISF enforcement, focusing on non-filers. Liquidated damages will be issued on a case-by-case basis and "Do Not Loads" will not be routine. In place of ISF Progress Reports, Customs is considering using ACE.
- FY 2011 Customs budgets are expected to be cut 10% and hiring reduced to 250 nationwide.

## ACE UPDATES

Customs has released its International Trade Data Systems (ITDS) Concept of Operations ([ConOps](#)) that describes the anticipated future import processes in ACE and the needs of the 3 stakeholder interest groups – Customs, Participating Government Agencies (PGAs), and Trade. Customs is making progress on the PGA CATAIR record set. Contact Linda King with questions.

## HONEY IMPORTS

- Executives of Chinese and Taiwanese honey companies have been [sentenced to 18 months](#) and [30 months](#) in prison and ordered to pay a total of \$9 million for conspiring to import mislabeled Chinese-origin honey to avoid a total of \$9 million in anti-dumping duties. Honey was also diluted with filler to increase profits.
- Eleven executives and six corporations have been indicted for a conspiracy to avoid Chinese honey antidumping duties in [U.S. v. Alexander Wolff et al.](#) The charges include a Sarbanes-Oxley Act crime of destroying records prior to the investigation. U.S. District Court Case No. 08 CR 417.

## INTERAGENCY SHARING

- Ten agencies including Customs, CPSC, EPA, FDA, and ATF [met](#) and agreed to cooperate by sharing import safety data, including Importer Security Filing (10+2) data and CPSC General Conformity Certificates.
- Customs has provided more [information](#) on the Memorandum of Understanding ([MoU](#)) recently signed by CBP, ICE, the USDA's APHIS, FSIS, and the CPSC. These agencies will combine resources to reduce redundant inspections and improve targeting and enforcement efforts. View a short [explanation](#) of the new Import Safety Commercial Targeting and Analysis Center (CTAC).

## FTZ UPDATE

The Foreign-Trade Zones Board will release extensively rewritten regulations in December for public comment. This is the first update since 1991.

## AIR CARGO SCREENING

- The Department of Homeland Security (DHS) has [announced](#) several steps to enhance security for inbound cargo flights after a disrupted attempt to ship explosive devices on aircraft bound for the United States. DHS indicates that some of the steps will be visible, while others will not. Steps include better adapting inbound cargo targeting rules to reflect new intelligence and ordering a ground halt on all cargo coming from Yemen.
- Another bill requiring 100% screening on inbound air cargo is being discussed.

## FCPA

- 2010 is proving a record year for the number of FCPA cases and fines levied. Recent cases include Shell, TransOcean Inc., Tidewater Marine International, Pride International Inc., and the Noble Corporation.
- A Securities and Exchange Commission [Proposed Rule](#) provides procedures for whistleblowers to provide information on suspected violations and establishes an award system. The procedures are applicable to FCPA violations as well. Comments are due December 17, 2010.

## FDA STRATEGIC PLAN

- The Food and Drug Administration has [posted](#) to its website a draft copy of its strategic priorities for 2011-2015. Strengthening the safety and integrity of the global supply chain is one of four priorities, and a second priority is strengthening compliance and enforcement activities. Of particular note is a recognition that FDA efforts need to move from the border to the supply chain and global regulatory alliances.
- The Government Accountability Office (GAO) released a report that found that [more progress is needed](#) in the Food & Drug Administration's program for inspections of foreign drug manufacturing facilities.

## C-TPAT

Customs officials attending a recent meeting of the Commercial Operations Advisory Committee (COAC) [provided](#) interesting information on trade security developments: Customs is allowing ports to place non-intrusive inspection holds on cargo if no ISF has been filed; Customs mutual recognition of C-TPAT-like programs in Canada and Japan allowed these countries to perform 92 C-TPAT validations; Customs is conducting joint validations with the European Union and China, as well as helping Mexico to establish its own industry partnership program; two 2011 C-TPAT conferences are planned for March in San Diego and June in New Orleans.

## CARRIER TERMS

Exporters who rely on forwarders and carriers for compliance need to carefully consider the implications of a clause in many standard terms and conditions that states that if they are fined for a shipment as a violation of any export law, they will seek compensation from the shipper. Clients are encouraged to consider alternate agreement language. Contact Marshall Miller with questions.

## MEXICO TRUCKING DISPUTE

Mexico is preparing to implement another rotation of the retaliatory tariffs if a proposal to resolve the NAFTA trucking dispute is not received soon. In early October, Ray LaHood, Secretary of Transportation, announced a draft proposal would be presented to Mexico following the mid-term elections.

## LACEY ACT COMMENTS DUE

The Animal and Plant Health Inspection Service (APHIS) has reopened the comment period on the Proposed Rule establishing definitions for "common cultivar" and "common food crop" under the Lacey Act. Comments are due November 29, 2010. 75 Fed. Reg. [66699](#) (Oct. 29, 2010).

## BROKER INFO SHARING

Customs has issued a Proposed Rule to permit customs brokers to share importer information with broker affiliates and to use third party copying, scanning, and messenger services for importer records. Clients are encouraged to read the Proposed Rule, consider its impact and comment. Comments are due December 27, 2010. 75 Fed. Reg. [66050](#) (Oct. 27, 2010).

## CUSTOMS PILOTS LAUNCHED

Custom has launched two new [pilot programs](#): The Center of Excellence and Expertise (CEE) will work with other government agencies and the trade to develop comprehensive strategies to facilitate trade and manage risk within the pharmaceutical sector, and the Account Executive (AE) pilot will test Customs ability to work with trusted electronic industry partners to facilitate trade and ensure compliance with import requirements.

## U.S.-INDIA EXPORT REFORM

The White House has [proposed](#) a four part phase-in program for India: (1) removal of civil space and defense related entities from Commerce Entities List; (2) modify India's status as a "Country of Concern" under U.S. dual-use rules; (3) support India's inclusion in Nuclear Suppliers Group, Missile Technology Control Regime, the Australia Group and the Wassenaar Arrangement; (4) expand export control cooperation between the U.S. and India.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/10		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	274	257
SUBZONES	664	519
PENDING		
ZONES	2	
SUBZONES	25	
MISCELLANEOUS	29	
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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