

## SCREENING SUPPLIERS

A recent Wall Street Journal [article](#) reminds companies that they need to screen both imports and exports against denied party lists. OFAC regulations prevent U.S. companies not only from selling products to these companies, but also from buying products from them. In many cases the denied party is not just the customer or supplier, but a bank, a freight forwarder or other intermediary. Both names and addresses need to be screened. Contact Sean Murray or Charles Ballard with questions on denied party screening and establishing an effective management process.

## 10+2 (ISF) ENFORCEMENT

- Importer Security Filing (ISF) enforcement has begun and Customs has updated the "10+2" FAQs to provide further guidance. An updated enforcement section indicates that violators should expect non-intrusive inspections (NII), warnings, and/or delays in release of cargo. Repetitive violations will lead to more holds and inspections and will result in liquidated damages and do not load (DNL) notices. Non-compliant C-TPAT participants may be suspended, or have their C-TPAT status reduced or revoked. [ISF FAQs](#) (Jan. 28, 2010).

- Customs has issued a CSMS message regarding the implementation of the Customs Response Messages (CUSRES) for 10+2 filers. Bond-related edits will be issued for two weeks after the February 24 implementation, but thereafter will be rejected without further notice. CSMS [#10-000038](#) (Feb. 7, 2010).

## 2010 TRAINING SEMINARS

The firm's February 23-24 seminar is full. The following sessions have space available:

- April 13-14 Advanced Export Seminar.
- May 11-12 Advanced Classification Seminar.

Register by e-mail to [Penny Freeman](#).

## ISA STATS

Customs Importer Self-Assessment (ISA) program statistics for 2009 confirm that participation in ISA is not a free-ride. While the program currently has 198 participants, Customs has denied 18 applicants, 47 applicants are under an improvement plan, and 20 participants have withdrawn from the program. We are also aware of at least two ISA participants who have been notified of upcoming re-validations. Contact Michael Thomas with questions.

## OFAC SETTLEMENT

Increased export enforcement continues: Balli Group PLC and Balli Aviation, Ltd. (Balli) have agreed to a \$15 million civil penalty [settlement](#) with the U.S. Office of Foreign Asset Controls (OFAC) and the Bureau of Industry and Security (BIS) for supplying and attempting to supply U.S. airliners to Mahan Airlines of Iran. The Department of Justice also agreed to a \$2 million criminal penalty [settlement](#). Companies must ensure that any business with embargoed/sanctioned countries is carefully structured, and that "Chinese Walls" be implemented where necessary. Contact Charles Ballard with questions.

## HAITIAN RELIEF EFFORTS

- Customs and Census are facilitating the shipment of relief supplies to Haiti. Automated Export System (AES) filings are still required for shipments to Haiti if on a license or over \$2500 in value. Special Schedule B Numbers in Heading 9802 may be used for the relief supplies, including food, medical products, apparel including footwear and certain donated articles. The Census Foreign Trade Division Call Center will provide assistance to exporters. Additional information can be found on Census [website](#).
- Customs has [announced](#) temporary textile visa procedures for Haiti HOPE claims.

## BROKER PENALTIES

- The CIT dismissed a claim against an officer for negligence committed by the customs brokerage firm. This decision distinguishes prior holdings where corporate officers have been held liable for violations committed in their employment capacity, in part because Customs failed to adequately plead the complaint. [U.S. v. Tip Top Pants, Inc.](#), CIT Slip Op. 10-05 (Jan. 13, 2010).
- The CIT recently held that in broker penalty cases all 10 factors in 19 C.F.R. § 111.1 must be considered by Customs and evidence provided at trial or the penalty action will be dismissed. [U.S. v. UPS Customhouse Brokerage, Inc.](#), CIT Slip Op. 10-11 (Jan. 28, 2010).

## IPR SAMPLE BOND

Customs has posted a [sample template](#) for the continuous IPR bond option on its website.

## C-TPAT 2009 HIGHLIGHTS

Customs has posted the Customs-Trade Partnership Against Terrorism (C-TPAT) program [accomplishments](#) for 2009. Customs certified 1,237 new members in 2009, conducted 3,420 validations, and suspended or removed 297 members.

## EXPORT TASK FORCE

- High ranking Obama Administration officials are still working on reforming the U.S. export control system. Washington sources suggest there have been discussions on how to remove items from the Commerce Control List (CCL), setting up a "community of trusted partners" making it easier to ship to or from certain close allies, transferring control of commercial satellites to the Bureau of Industry and Security, and looking at an intra-company transfer set of regulations.
- In an interesting argument against loosening export controls, the International Association of Machinists and Aerospace Workers recently [expressed](#) concern that relaxed export controls may lead to more out-sourcing and fewer U.S. jobs.

## NAFTA CERTS CASE

The CIT recently dismissed an importer's claim regarding the timely submission of NAFTA Certificates of Origin with a post-importation NAFTA claim. The CIT held that the Certificates must be presented within one-year of importation with any post-importation claims made under 19 U.S.C. § 1520(d). [Ford Motor Co. v. U.S.](#), CIT Slip Op. 10-4 (Jan. 12, 2010).

## PAIRED UP

The PAIRED (Port of Arrival Immediate Release and Enforcement Determination) entry program, scheduled for elimination on January 29, 2010, was granted a reprieve due to current limitations with the Remote Location Filing (RLF) program. CSMS [#10-000026](#) (Jan. 26, 2010).

## WHITE-COLLAR SENTENCING

The U.S. Sentencing Commission has published Proposed Amendments to the Sentencing Guidelines that would reduce penalties imposed on corporations related to criminal prosecutions if a company has qualifying compliance programs and timely reports any potential criminal violations to authorities. 75 Fed. Reg. [3525](#) (Jan. 21, 2010). Contact Sean Murray with questions on implementing, reviewing, or enhancing import and export procedures.

## OBAMA TRADE POLICY

President Obama announced his initiatives to increase exports and to move forward on FTAs during his recent State of the Union [Address](#). In a follow-up [address](#) to the Senate Democratic Policy Committee, President Obama told Democrats that he would seek a "reciprocal trade relationship" with China and squarely confront non-tariff barriers, imbalances in Chinese currency valuation, develop new solar and wind energy manufacturing in the U.S. and increase American exports.

## ORIGIN MARKING RULING

In a recent ruling reminding importers of the need to closely monitor Customs and broker communications, Customs found that although an importer had not received a Customs issued "Notice to Mark" in a timely manner, the company was still responsible for a subsequent "Notice of Action" imposing a 10% marking duty because its broker had received and signed the "Notice to Mark." See HQ [H077355](#) (Oct. 28, 2009).

## VOLUNTARY DISCLOSURES

The Bureau of Industry and Security (BIS) has [posted](#) a detailed list of companies that submitted Voluntary Self Disclosures (VSDs) for export violations in 2009. 17 companies submitted VSDs, with penalties ranging from a high of 50% of what could have been fined to as little as 3%.

## TEXTILE TEAM VISITS

Customs Textile Production Verification Teams (TPVT) [visits](#) to 261 foreign factories for fiscal year 2009 identified a 60% error rate with 50 closed factories, 16 factories with evidence of transshipment, one refusal of admission/documents, and 32 factories characterized as high risk. In addition, 11 factories were found in violation of FTA/Preference Programs, and 47 were found to have insufficient documents to support FTA/Preference claims.

## BUY AMERICAN

The U.S. and Canada have reached agreement on certain "Buy American" provisions in the American Recovery and Reinvestment Act of 2009 that will allow Canadian suppliers to bid on state and local contracts subject to stimulus funds. Signing of the [agreement](#) is expected on February 16, 2010; a similar agreement is expected with Mexico.

## CBP-ITAR PROCEDURES

Houston Customs has issued guidance for imports controlled under the International Traffic in Arms Regulations (ITAR), indicating that:

- all entries involving temporary import licenses (DSP-61) or temporary export licenses (DSP-73) require paper CBP Form 3461, and
- all imports under ITAR license exemptions may be handled via ABI, but require special diligence with documentation to avoid cargo delays. Houston Public Info. Notice [HFO 10-001](#) (Feb. 5, 2010).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 2/15/10		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	273	256
SUBZONES	647	541
PENDING		
ZONES	2	
SUBZONES	31	
MISCELLANEOUS	31	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	