

BRIEFINGS

VOLUME 28, NO. 1
January 15, 2016

2016 HTSUS

The International Trade Commission (ITC) has [released](#) the 2016 edition of the Harmonized Tariff Schedule of the United States (HTSUS). Some [changes](#) include:

- Lowering the duty rate for assembled flooring panels;
- Adding new suffixes for steel bars and rods;
- Adding new suffixes for flat panel TVs; and
- Adding new subheadings for imports under the tariff rate quota on sugars, syrups, and molasses.

ITA

On December 22, 2015, the U.S. and 50 other World Trade Organization (WTO) members finalized an [expansion](#) of the Information Technology Agreement (ITA) that will eliminate Customs duties on more than 200 high-tech products. Certain industry sectors stand to benefit from the ITA including semiconductors, medical devices, optical media, loudspeakers and headsets. \$180 billion of U.S. high-tech exports will no longer face tariffs. On the import side, products such as printing inks for printers (1.8%), certain medical devices (1.7%), projection screens (2.6%), loudspeakers (2.5%), and certain resins (3.1%) will have their duties reduced to free.

HELLFIRE IN CUBA

The Directorate of Defense Trade Controls (DDTC) is investigating how an inert U.S. "[Hellfire](#)" missile made its way to Cuba. The missile was originally shipped to Europe for training and allegedly was put on a flight to Havana instead of back to the United States.

2016 SEMINARS & WEBINARS

- April 5 & 6 - FTZ 101 & 201
- May 3 & 4 - Import/Export 101 & 201
- May 5 - Advanced Export
- September 13 & 14 - FTZ 101 & 201
- November 1 & 2 - Import/Export 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).
- 2016 webinars will be conducted on breaking issues as they arise. Information will be posted on our [website](#), or you can [sign up](#) for our webinar mailing list to be notified when a webinar has been scheduled.

ACE FDA DATA ELEMENTS

The FDA has [posted](#) a diagram outlining the required data elements in Automated Commercial Environment (ACE) for all types of FDA-regulated goods.

CENSUS 2016 HTS

In a January 5 Broadcast message, Census [indicated](#) that it will accept 2015 Harmonized Tariff Schedule (HTS) classifications and Schedule B numbers that were updated for 2016 until January 30, when Fatal Error messages will be generated.

GREEN GOODS

President Obama has issued a Proclamation that lowers duties on 54 environmental goods including certain wood panels, boiler parts and steam turbines, as required by the Asia Pacific Economic Cooperation (APEC) environmental goods deal. 80 Fed. Reg. [81155](#) (Dec. 29, 2015).

ACE AND FTZ ICRS

FTZ users and operators who have developed their own FTZ inventory control and recordkeeping systems (ICRS) are reminded of the urgent need to update programming for the ACE transition. There are many new and different data elements that need to be reported. Contact Linda King or Marshall Miller with questions.

ACE TRANSITION ISSUES

- The National Customs Brokers Freight Forwarders Association (NCBFAA) [published](#) an open letter on ACE transition issues. The principal issues raised are:
 - Constant tweaks from Customs have made it impossible to finalize software. Software updates are being issued on a daily basis.
 - Undeployed capabilities make it difficult to switch to ACE.
 - Inability to complete and test ACE components could require a delay to the February 28 deadline.
- An example of the difficulties may be seen in CSMS [#16-000023](#) (Jan. 13, 2016), which provides confusing guidance on ACE cargo release filings and pilot program participation, and then says the guidance is only valid until January 18.

AES TRANSITION TO ACE

Census [announced](#) in a January 14 broadcast message that the ability to access AESDirect through Census will be phased out from February 15 to March 14. AES Direct and AES WebLink filers are being strongly encouraged to migrate to ACE well before access is turned off. Contact Jerry Greenwell or Chuck Ballard with questions.

TPP

- The World Customs Organization (WCO) has released an [outline](#) of country of origin provisions in the Trans-Pacific Partnership (TPP), including claims for preferential treatment, origin verification, regional value content, and de minimis.
- TPP countries are planning to sign the TPP on February 4, 2016 in Auckland, New Zealand.
- U.S. timeframes are unclear. Congress is not expected to vote on the TPP until after the November elections. U.S. Trade Representative Michael Froman hopes the TPP will be implemented in early 2018.

DRAWBACK

Customs has denied an importer's duty drawback claim for an exported defective part of an imported machine because the value of the part was not clear from the original Customs entry paperwork. [HQ H259469](#) (Oct. 9, 2015).

FCC FORM 740 WAIVER

Import data for goods regulated by the Federal Communications Commission (FCC) can be filed through ACE Entry Summary which is then directed in the legacy Automated Commercial System (ACS) until July 1, 2016 when ACS is shut down. The FCC has decided to waive the form requirement from July 1 through December 31, 2016 to give it time to make a final determination on how Radio Frequency (RF) devices will be handled. CSMS [#16-000008](#) (Jan. 7, 2016).

BIS PENALTY GUIDANCE

The Bureau of Industry and Security (BIS) has published a Proposed Rule that revises its enforcement guidelines, covering civil and criminal cases, mitigating and aggravating circumstances, and penalty amounts. Contact Sean Murray with questions. Comments are due by February 26. 80 Fed. Reg. [80710](#) (Dec. 28, 2015).

REPEAL OF COOL

President Obama has signed the omnibus spending bill which repealed the U.S. country-of-origin labeling (COOL) requirements for beef and pork. This should prevent \$1 billion in Mexican and Canadian retaliatory tariffs approved by a World Trade Organization (WTO) Dispute Settlement Body (DSB). H.R. [2029](#) (Dec. 18, 2015).

NAFTA COOS

The Court of Appeals for the Federal Circuit (CAFC) has ruled that Customs can apply different NAFTA certificate of origin (COO) waiver rules for post-importation claims under 19 U.S.C. § 1520(d) and reconciliation. [Ford Motor Company v. U.S.](#), CAFC Slip Op. [2014-1581](#) (Jan. 6, 2016).

ENERGY EFFICIENCY

The Energy Department (DOE) has proposed requiring "certificates of admissibility" at the time of entry for products and equipment subject to energy efficiency standards. According to a DOE spokeswoman, the intent is for the certificate to be filed when the Customs entry is filed. Comments are due by February 12, 2016. 80 Fed. Reg. [81199](#) (Dec. 29, 2015).

AD/CVD SCOPE

In a significant decision, the Court of International Trade (CIT) has ruled that Customs lacks the authority to interpret ambiguous antidumping and countervailing duty (AD/CVD) scope language and demand that importers post AD/CVD cash deposits. Instead, Customs must wait for the Department of Commerce to initiate a scope inquiry before suspending liquidations. Expect an appeal. Contact Brian Murphy with questions. [Sunpreme Inc. v. U.S.](#), CIT Slip Op. [16-02](#) (Jan. 8, 2016).

AUSTRALIA FTA

Customs has finally issued a Final Rule with the regulations for the U.S.-Australia Free Trade Agreement. 81 Fed. Reg. [2085](#) (Jan. 15, 2016).

LIMITATIONS WAIVERS

The Court of International Trade (CIT) has ruled that a statute of limitations waiver issued by a surety was effective, even though it was issued after the six year statute of limitations period had already expired. [U.S. v. American Home Assurance Company](#), CIT Slip Op. [15-141](#) (Dec. 17, 2015).

FALSE CLAIMS ACT

A furniture importer [will pay](#) \$15 million to settle claims that it falsely entered furniture as not subject to Chinese antidumping duties. The case was originally filed under the whistleblower provisions of the False Claims Act by a competitor, who will receive a \$2.25 million share.

DDTC LICENSES

On December 21, the DDTC waived the [requirement](#) for exporters to deposit DDTC licenses with Customs because DDTC is already sending information through ACE.

CRUDE OIL EXPORTS

With the recent signing of the Consolidated Appropriations Act, BIS has [changed](#) the export control classification of crude oil to EAR99. Thus, most exports of crude oil no longer require a license.

CONTINUOUS BONDS

Due to concerns raised by the industry, the Customs Revenue Division will give principals a total of 30 days from demand letter date to remedy a bond deficiency. A Final Rule that was effective as of December 14, 2015 changed the time period from 30 days to 15.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 1/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	290	272
SUBZONES	744	590
PENDING		
ZONES		4
SUBZONES		14
MISCELLANEOUS		36

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.
© 2016 Miller & Company P.C.

4929 MAIN STREET
KANSAS CITY, MO 64112
816.561.4999
FAX 816.561.5999
E-MAIL intllaw@millerco.com

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

233 BROADWAY, SUITE 2702
NEW YORK, NEW YORK 10279