

# BRIEFINGS

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## INDIVIDUAL PENALTIES

The corporate officer held directly liable for 19 U.S.C. § 1592 penalties by the Court of Appeals for the Federal Circuit (CAFC) because he “introduced” suits without declaring assists has [filed](#) a petition for writ of certiorari with the U.S. Supreme Court. He argues in part that the proposed addition of personal information on corporate officers to CBP Form 5106 indicates Customs willingness to assess personal Section 1592 penalties. [Shadadpuri v. U.S.](#), 14-986 (Feb. 13, 2015).

## CUSTOMS PROTESTS

Demonstrating the importance of following the technical rules for Protests, the U.S. Court of International Trade (CIT) has ruled that a letter which was not labeled as a Protest and did not contain all the information required by the Customs Regulations was not a valid Protest. At a recent conference, a Customs official indicated the decision provides grounds to reject Protests that fail the regulatory requirements. [Ovan International. Ltd. et al v. U.S.](#), CIT Slip Op. [15-17](#) (Feb. 23, 2015).

## M&A DUE DILIGENCE

Goodyear Tire and Rubber Company has [agreed](#) to pay \$16.2 million dollars for failing to detect bribes paid by two subsidiaries. Most of the bribes were prior to Goodyear’s acquisition, but the U.S. Securities & Exchange Commission believed the pre-acquisition due diligence was insufficient. The firm has questionnaires to conduct due diligence in mergers & acquisitions. Contact Sean Murray with questions.

## 2015 SEMINAR SCHEDULE

- March 31 & April 1 - FTZ 101 & 201
- May 20 & 21 - Import/Export 101 & 201
- September 15 & 16 - HTSUS/ ECCN Seminar
- October 20 & 21- FTZ 101 & 201
- November 17 & 18 - Import/Export 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

## UPCOMING WEBINARS

- April 16 - Broker/Forwarder Management
- May 14 - Import/Export Considerations in Purchases and Sales of Companies
- Visit the Miller & Company website for the full 2015 webinar [schedule](#).
- Register for webinars at our [eStore](#) or contact [Victoria Denney](#). Past [webinars](#) are available on our website.

## UNIQUE FTZ USE

An innovative zone use is occurring in Jacksonville where a zone is being used to consolidate a variety of imported and domestic merchandise including furniture, artwork, and gaming equipment for shipment to a resort in the Bahamas. The zone offers numerous advantages, including allowing the combination of domestic and foreign goods and eliminating duties on foreign goods that are re-exported. This model could also be used for other off-shore construction projects. Contact Scott Taylor with questions.

## CUSTOMS PENALTIES

The U.S. government has filed suit against an importer for \$17 million in 19 U.S.C. § 1592 civil penalties and underpaid duties, alleging fraudulent misclassification of new automobile tires as duty-free used tires or new tires used on agricultural or foresting vehicles. The government warned it could add the corporate officers to the suit if the evidence warrants personal liability. [U.S. v. China Tire Warehouse, Inc.](#), 1:15-cv-00059-N/A (CIT Mar. 9, 2015).

## EXPORT REFORM

The Bureau of Industry and Security (BIS) and the Directorate of Defense Trade Controls (DDTC) are requesting comments on recent changes to U.S. Munitions List Categories VIII and XIX, which include military aircraft, gas turbine engines, and related items. Comments are due by May 1. 80 Fed. Reg. [11315](#) (Mar. 2, 2015); 80 Fed. Reg. [11314](#) (Mar. 2, 2015).

## ANTIDUMPING DUTIES

Customs has alerted importers to review their imports of Chinese wooden chests based on a May 27, 2014 Commerce Department Scope Determination that ruled certain chests which are physically similar to covered chests and can store clothing are within the scope of the Antidumping (ADD) Order on Chinese wooden bedroom furniture. CSMS #[15-000103](#) (Feb. 18, 2015).

## COMMERZBANK SETTLEMENT

Germany’s Commerzbank AG has [agreed](#) to pay \$1.45 billion to resolve an investigation of its dealings with Iran and other sanctioned countries.

## CUBAN IMPORTS

The State Department has announced a [list of goods](#) that may be imported from Cuban entrepreneurs under limited circumstances. Imports from Cuba are dutiable at the column 2 rates in the Harmonized Tariff Schedule of the United States (HTSUS), so they will carry much higher duty rates than products from other countries.

## AD/CVD AUDITS

Customs has posted an [update](#) on antidumping and countervailing duty (AD/CVD) audits for the 2015 fiscal year. There are currently 108 audits in progress and 14 audits completed. Those audits identified \$22 million in value discrepancies and collected \$177,517 in revenue.

## LICENSE DOCUMENTATION

The Bureau of Industry and Security (BIS) has issued a Final Rule that streamlines the supporting document requirements for license applications. Most significantly, it no longer requires companies to obtain International Import Certificate or Delivery Verification documents for most license requests and limits Statements of Ultimate Consignee and Purchaser (BIS 711) to exports relating to "600 series" major defense equipment. 80 Fed. Reg. [13210](#) (Mar. 13, 2015).

## IOR ERRORS

Customs has issued a ruling in an Importer of Record dispute that reminds importers of the benefits of reviewing their entries for IOR usage. In HQ [H175077](#) (Nov. 24, 2014) Customs granted a Protest, agreeing that a company's IOR number was incorrectly listed due to clerical error or inadvertence.

## DRUG IMPORTS

The U.S. District Court for the District of Maine recently [ruled](#) that Maine's 2013 law allowing consumers to import prescription drugs by mail from certain countries is pre-empted by federal law. [Ouellette v. Maine](#), 1:13-cv-00347-NT (D. Me. Feb. 23, 2015).

## NEW RUSSIAN ENTITIES

The Office of Foreign Assets Control (OFAC) has added fourteen persons and two entities to the [Special Designated Nationals](#) (SDN) list on March 11 for their role in the Ukrainian conflict.

## KIT RULING REVOKED

A Customs Headquarters Ruling has revoked four (4) rulings, determining that each of the items in a children's oral hygiene kit (a toothbrush, toothbrush holder, plastic rinse cup, and plastic toy) must be classified separately and duty paid on the toothbrush holder and plastic rinse cup. HQ [123519](#) (Feb. 5, 2015).

## MERCHANDISE VALUES

Customs has ruled that an importer of branded merchandise cannot use transaction value because of its agreement with the foreign seller that directed the importer to remove out of season merchandise from its inventory. Contact Tom Lobred with questions. HQ [H038381](#) (Nov. 14, 2014).

## DRONE TRADE

The U.S. Department of State has issued new control [guidelines](#) for exports of unmanned aerial systems. U.S. companies and foreign end-users must sign and submit an [addendum](#) to Form DSP-83 at the time of application to confirm the end-user meets specific criteria.

## SMALL ENGINES

Customs and the Environmental Protection Agency [announced](#) on February 19 that they had returned over 730 engines back to their home country after the items failed their inspection tests.

## TEA TIME

In an interesting ruling that gets into old legislative history, Customs has ruled that Starbucks must separately classify and pay duties on the immediate packaging of the company's single-serve tea. [HQ H254133](#) (Dec. 17, 2014).

## ITC PILOT – IMPORT BANS

The U.S. International Trade Commission (USITC) has announced a new [pilot program](#) to expedite rulings on whether exclusion orders cover redesigns and new products.

## HTS CHANGES/COMMENTS

The USITC is requesting public [comments](#) on proposed changes to the Harmonized Tariff Schedule. Comments are due by April 20. 80 Fed. Reg. [8686](#) (Feb. 18, 2015).

## EXPORT ENFORCEMENT

The Justice Department has indicted [Vibgyor Optical Systems](#) of Arlington Heights, Illinois for sending International Traffic in Arms Regulations (ITAR) regulated drawings to China to manufacture night-vision equipment for Defense Department end users.

## VENEZUELA EO

On March 9, 2015, President Obama issued Executive Order [13692](#) blocking the assets of seven Venezuelan government officials and placing them on the list of Special Designated Nationals (SDNs). The U.S. also declared Venezuela a "national security threat," a common precursor to a sanctions or embargo program. 80 Fed. Reg. [13667](#) (Mar. 16, 2015).

## CPSC CERTIFICATES

The Consumer Product Safety Commission announced in a March 12 webinar with Customs that it plans to streamline their required certificates at Customs entry by creating a certificate registry that would house full certificate information. Contact Sean Murray with questions.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/15		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	288	270
SUBZONES	728	574
PENDING		
ZONES		4
SUBZONES		17
MISCELLANEOUS		37

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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