



## DE MINIMIS VALUE INCREASE

Automated Commercial Environment (ACE) programming changes were implemented on March 7, 2016 to increase the de minimis value exemption from entry (aka "Section 321") from \$200 to \$800. This will allow express carriers and truck carriers to test the electronic release of Section 321 shipments. CSMS [#16-000170](#) (March 7, 2016).

- We generally caution clients against using Section 321 entries. Products requiring Participating Government Agency declaration and release may require Customs entry. Contact Sean Murray with questions.

## MPF

In response to a provision in the Trans-Pacific Partnership (TTP), the Obama Administration is considering modifications to the Merchandise Processing Fee (MPF) to create a four-tier MPF system with charges of \$30, \$120, \$260, or \$500. This could change MPF calculations for foreign-trade zones. Changes are not likely in 2016.

## SOFTWARE PRODUCTS

A Customs Final Rule states that cyber-security software products from a Malaysian company are considered U.S. origin for government procurement purposes. The object code is compiled in the U.S., while the source code is written in Malaysia. A "software build" results in a substantial transformation, making the software of U.S. origin. 81 Fed. Reg. [8733](#) (Feb. 22, 2016).

## STEEL IMPORTS

- Customs will [require](#) "live entries" for steel plate from China, which means entries must be filed with duties prior to cargo release.
- The U.S. Commerce Department has launched an antidumping and countervailing duty [investigation](#) into imports of stainless steel sheet and strip from China.

## 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 TRANSITION TIMELINE

Customs has updated the timeline for mandatory filing in the Automated Commercial Environment (ACE):

- Effective March 31, 2016: ACE will be the sole Customs authorized EDI system for electronic filing of Entry Types; 01, 02, 11, 23, 51, and 52. ACE filings will be required for these Entry Types for merchandise subject to APHIS Lacey Act and NHTSA (National Highway Traffic Safety Administration) import requirements, unless such filings also include other PGA data.
- Effective May 28, 2016: Type 06 Foreign-Trade Zone entries must be filed in ACE along with all required data for Lacey Act and NHTSA.
- Summer 2016: Throughout the summer, the following agencies will provide functionality for ACE filing: AMS, ATF, APHIS Core, CDC, DCMA, DDTTC, DEA, E&C, EPA, FWS, FSIS, NMFS, and TTB.
- The Food and Drug Administration (FDA) has announced that it will be making some mandatory data elements conditional and a new supplemental guide for ACE filing will be released shortly. 81 Fed. Reg. [10264](#) (Feb. 29, 2016).

## FTR PROPOSED RULE

Census has published a Proposed Rule to modify the Foreign Trade Regulations (FTR). The Proposed Rule includes:

- New codes for ECCN "600 series" parts and the "Support for the Cuban People" license exception;
- New data elements for "used electronics" and "Original ITN";
- Clarification of a few definitions; and
- Clarification that products of Export Administration Regulations (EAR) Part 758 (i.e., 600 series products) require AES submissions. Comments are due by May 9. 81 Fed. Reg. [12423](#) (March 9, 2016).

## ZTE ON BIS ENTITY LIST

Zhongxing Telecommunications Equipment Corporation (ZTE), one of the world's largest manufacturers of telecommunications equipment, has been [placed](#) on the Bureau of Industry and Security (BIS) Entity List. Any export subject to the EAR to ZTE will now require an export license, and BIS has indicated that most requests will be denied. Contact Chuck Ballard with questions. 81 Fed. Reg. [12004](#) (March 8, 2016).

## 2015 IMPORT STATS

Customs Commissioner R. Gil Kerlikowske recently [highlighted](#) fiscal year 2015 trade and enforcement statistics. Customs processed more than \$2.4 trillion in imports and more than \$1.5 trillion in exports, processed approximately 33 million entries, and collected \$46 billion in duties, taxes, and other fees. Free trade agreements and other special trade programs represented approximately 27% of total U.S. imports by value. There were 368 seizures of unsafe imported products with a retail value of \$24 million. \$1.2 billion in antidumping/countervailing (AD/CVD) deposits were collected.

## SANCTIONS

- The Office of Foreign Assets Control ([OFAC](#)) and [BIS](#) are publishing Final Rules on March 16 that, among other things, reduce Cuba sanctions related to carriers and certain business activities and presence, and change licensing policy in support of private enterprise to review on a case-by-case basis.
- President Obama has signed a law implementing increased sanctions against North Korea. H.R. [757](#) (Feb. 18, 2016).

## INTRUSION SOFTWARE

Illustrating the complexity of the current government dispute with Apple over encryption, the U.S. has started [negotiating](#) with the Wassenaar Arrangement members to change the controls on technology related to intrusion software. The U.S. wants to limit the controls to software that would be used by a government to penetrate networks and extract data without the user's knowledge. The U.S. does not want to limit benign and civil applications.

## TEXTILE TEAM VISITS

Customs recently [completed](#) fiscal year 2015 Textile Production Verification Team (TPVT) visits to 123 foreign factories in El Salvador, Honduras, Dominican Republic, Korea, Ethiopia, Guatemala, Ethiopia, Lesotho, Madagascar, and Mauritius, finding 8 closed factories, and 3 factories characterized as high risk. In addition, 5 factories were found in violation of FTA/Preference Programs, and 29 were found to have insufficient documents to support FTA/Preference claims.

## COOL REPEAL RESULTS

A Final Rule issued by the Agriculture Department, which took effect on March 2, removed pork muscle cuts, ground beef, and pork from the list of commodities subject to USDA country of origin labeling (COOL) requirements. 81 Fed. Reg. [10755](#) (March 2, 2016).

## FCPA SETTLEMENT

Olympus Corp. of the Americas (OCA) has [agreed](#) to pay \$646 million for alleged violations of the Foreign Corrupt Practices Act (FCPA). OCA and Olympus of Latin America (OLA) were accused of making payments to various hospitals and doctors in Latin America to promote sales of endoscopes and related equipment made by OCA.

## REVISED FDA AOC CODES

On March 3, 2016, FDA [released](#) a list of updated Affirmation of Compliance (AOC) codes for use in ACE.

## WHISTLEBLOWER LAWSUIT

The U.S. Justice Department recently [announced](#) a \$3 million settlement with a group of Pennsylvania-based importers and their owners who were sued by another company under the whistleblower provisions of the False Claims Act for purposefully misidentifying imports of small-diameter graphite electrodes used in industrial furnaces to avoid paying antidumping duties.

## ORIGIN MARKING

The Court of Appeals for the Federal Circuit (CAFC) has ruled that trademarks do not need to be registered or the subject of a pending trademark application for merchandise to qualify for the relaxed origin marking standards of 19 C.F.R. §§ 134.46 and 134.47. [JBLU, Inc. v. U.S.](#), CAFC Slip Op. [15-1509](#) (Mar. 2, 2016).

## EXPORT REFORM

The BIS and the Directorate of Defense Trade Controls (DDTC) have issued Proposed Rules to move many items associated with lasers, imaging, and guidance control from the U.S. Munitions List (USML) to the Commerce Control List (CCL). Comments are due April 4. 81 Fed. Reg. [8421](#) (February 19, 2016); 81 Fed. Reg. [8438](#) (Feb. 19, 2016).

## ENERGY EFFICIENCY STDS

The Department of Energy (DOE) indicated at a public workshop on February 19 that imports have been a compliance issue for energy efficiency standards and, by requiring data submission in ACE at entry, the DOE is hoping to increase importer compliance. The comment period on its Proposed Rule closed March 14. 81 Fed. Reg. [11686](#) (March 7, 2016).

## GREEN GOODS

Negotiators met in Geneva on March 2-4 for the 12th round of [negotiations](#) on the World Trade Organization Environmental Goods Agreement (EGA). A list of 340 goods is under review, with the goal of concluding the EGA in 2016.

## IRAN SDNs

The OFAC has removed many individuals and entities from the Specially Designated Nationals (SDN) List. U.S. persons are still generally restricted from engaging in any transactions with these people or entities. 81 Fed. Reg. [13562](#) (March 14, 2016).

## CEO PENALTIES

- Louis Brothers, the former president and CEO of [Valley Forge Composite Technologies](#), was fined \$1.1 million and sentenced to 93 months in prison for his role in exporting military electronics to China.
- [Erdal Kuyumcu](#), CEO of Global Metallurgy of Woodside, New York, was arrested for exporting specialized metallic powder to Iran. If convicted Mr. Kuyumcu faces a \$1 million fine and 20 years in prison.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	291	273
SUBZONES	746	592
PENDING		
ZONES	3	
SUBZONES	17	
MISCELLANEOUS	35	

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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