

BRIEFINGS

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FTA-EU

- On March 20, 2013, Ambassador Demetrios Marantis, Acting U.S. Trade Representative (USTR), sent a letter to Congress indicating the President's intent to start [negotiations](#) with the EU on a new FTA within 90 days.
- The USTR has requested public comment on the impact of the FTA and announced a two-day hearing on May 29-30. Comments are due May 10. 78 Fed. Reg. [19566](#) (April 1, 2013).
- Non-tariff barriers such as scientific standards, food safety regulations, and government procurement will be key issues to resolve.

REAUTHORIZATION BILL

Senate Finance Committee members Max Baucus (D-MT) and Orrin Hatch (R-UT) [introduced](#) Customs reauthorization legislation ([S. 662](#)) on March 22, 2013. The legislation would authorize the development of the Centers for Excellence and Expertise, raise the *de minimis* level from \$200 to \$800 for express carrier/consignment entries, allocate funding to ACE and ITDS, and require ACE to be completed in three years. This Bill is similar to House Bills H.R. 6642 and H.R. 6656.

RESIDUE REPORTING

Customs has [released](#) a draft version of a planned Federal Register notice on the entry of residues. Customs intends to create a pilot before the end of the year and roll out its new "residue entry" to permit carriers and importers to have an alternative to filing entries of residue in containers.

UPCOMING SEMINARS

- April 30 - Import/Export 101
 - May 1 - Import/Export 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

UPCOMING WEBINARS

- April 18 - NAFTA/FTA Qualification and Certificates of Origin
 - May 9 - Increasing FTZ Savings
- Check out a complete list of upcoming webinars on our [website](#). Register for the webinars at the Miller & Company [eStore](#) or contact [Victoria Denney](#).
- Podcasts of past webinars are available on our website.

CES/CCS CREDITS

Our Seminars and Webinars are approved by the National Customs Brokers & Forwarders Association of America (NCBFAA) for Certified Customs Specialist (CCS) and/or Certified Export Specialist (CES) Credits. See our website.

BROKER LIABILITY

A federal jury has found a customs broker liable for violating trademark and customs laws by acting as the broker for importers that it knew were importing counterfeit Coach products. Coach also alleged that the broker failed to take action to verify the identity of the importer. The jury awarded Coach a total of \$8 million. [Coach, Inc. v. Celco Customs Services Co.](#), Case No. CV 11-10787 (C.D. Cal., Mar. 28, 2013).

EXPORT REFORM

- The Final Rules for moving certain items from the U.S. Munitions List (USML) to the Commerce Control List (CCL) was published on April 16. The new rules, which take effect on October 14, will move some items from USML Categories VIII (aircraft and related articles), XVII (classified articles not otherwise enumerated), and XXI (articles technical data and services not otherwise enumerated) to the CCL. There will also be a new USML Category XIX to cover gas turbine engines and associated equipment which was formerly found in other sections of the USML. The new rules also include a new definition of "specially designed." 78 Fed. Reg. [22659](#) (April 16, 2013); 78 Fed. Reg. [22740](#) (April 16, 2013).
- On March 28 the Bureau of Industry and Security (BIS) established the first ECCNs in the "500" series. ECCN 0A521 covers biosensor systems capable of detecting certain biological agents. Test and production equipment, software, and technology related to these products are also included in new ECCNs. 78 Fed. Reg. [18814](#) (Mar. 28, 2013).

SUCCESSOR LIABILITY

The U.S. Court of International Trade (CIT) has refused to dismiss a lawsuit seeking outstanding duties and 19 U.S.C. § 1592 penalties of \$6.8 million against a successor company. The CIT refused to defer to a state court decision that the asset purchase by the successor entity extinguished liability for debts. [U.S. v. Adaptive Microsystems, LLC](#), CIT Slip Op. [13-50](#) (April 10, 2013).

TPP-JAPAN

The Acting U.S. Trade Representative (USTR) has [announced](#) the completion of bilateral talks with Japan and released a package of agreements that will be further negotiated with Trans-Pacific Trade Partnership (TPP) members prior to voting on whether to allow Japanese participation. The USTR has also released a [letter](#) sent to the Japanese Ambassador indicating the U.S. will negotiate automotive trade barriers and other non-tariff issues with Japan in parallel to TPP negotiations.

AUSTRALIAN TREATY

The U.S.-Australian Defense Trade Cooperation Treaty was implemented on April 11. The treaty provides a new exemption that will permit exports of qualifying defense articles, services and data to Australia without a license. Contact Chuck Ballard with questions. 78 Fed. Reg. [21523](#) (April 11, 2013).

INCOTERMS AND NDCs

The U.S. Court of International Trade has disallowed an importer's claim for adjustments to transaction value for freight charges because the importer could not prove from the documentation that the price ever actually included freight charges. This is a reminder that the deduction of non-dutiable charges (NDCs) is always hazardous. Importers need to ensure that terms of sale are consistent in P.O.s, contracts, and invoices, and match the intent of the parties. [Cutter & Buck, Inc. v. U.S.](#), CIT Slip Op. [13-45](#) (April 3, 2013).

FDA DETENTIONS

The Food & Drug Administration (FDA) is requesting comments on its newly acquired detention authority granted under the FDA Safety and Innovation Act (FDSIA), which allows the FDA to detain drugs, as well as food, tobacco products and devices. Comments are due May 9, 2013. 78 Fed. Reg. [21085](#) (April 9, 2013).

C-TPAT STATISTICS

Customs has released current Customs-Trade Partnership Against Terrorism (C-TPAT) [statistics](#). There are over 10,500 certified C-TPAT partners including 4,338 importers, and 1,297 foreign manufacturers. Of the 4,338 importers, only 327 (7.5%) have Tier 3 status. There are seven recognized mutual recognition arrangements, including with the European Union, and negotiations on another five are underway.

CEE EXPANSION

• Customs has issued a Notice officially announcing six new Centers of Excellence and Expertise (CEEs): Agriculture & Prepared Products, Apparel, Footwear & Textiles, Base Metals, Consumer Products & Mass Merchandising, Industrial & Manufacturing Materials, and Machinery. This Notice also provides the legal authority for the CEE test and explains the penalties and appeals process for misconduct. 78 Fed. Reg. [20345](#) (April 4, 2013).

• Speaking at the National Customs Brokers and Forwarders Association of America conference, Ms. Anne Maricich, Director of the Electronics CEE, stated that CEEs are expected to eventually allow participation of their entire industry, and not just "trusted traders." However, C-TPAT and ISA members would receive benefits that the rest of the industry is ineligible to receive.

DDTC END-USE MONITORING

The Directorate of Defense Trade Controls (DDTC) announced that of 820 "[blue lantern](#)" checks of end uses in 2012, approximately 20% were deemed unfavorable, meaning the information was determined to be different than the license authorization.

FAQ ON BURMA

On March 18 the Office of Foreign Asset Controls (OFAC) issued a list of [frequently asked questions](#) regarding Burma.

FSIS ELECTRONIC FILING

The Food Safety and Inspection Service (FSIS) is accepting requests from importers and Customs brokers to participate in its pilot for submission of electronic import inspection applications for meat, poultry, and egg products through ACE. Requests to participate are due by May 28. 78 Fed. Reg. [19182](#) (Mar. 29, 2013).

EXPORT VIOLATIONS

- Discount Computers of Canton, Michigan was [fined](#) \$2 million and its owner sentenced to 30 months in prison for attempting to evade environmental laws related to electronic waste exports.
- The Univ. of Massachusetts at Lowell has [received](#) a suspended fine of \$100,000 for exporting EAR99 products to a Pakistani company on the Entity List.

BROKER EDUCATION

Customs is proposing to require 40 hours of continuing broker education every three years. It is conducting two [webinars](#) on May 2, 2013 to describe the proposal. CSMS [#13-000189](#) (April 10, 2013).

FTA CLAIMS

Showing a limit on post-entry FTA claims, Customs Headquarters has issued a ruling that the importer could not file a post-entry preference claim under the U.S.-Singapore FTA once Customs had liquidated the entry. [H193959](#) (July 30, 2012).

WOOD PACKAGING

Customs has posted a new [presentation](#) on Wood Packaging Materials.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 4/15/13		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	282	265
SUBZONES	693	540
PENDING		
ZONES		5
SUBZONES		14
MISCELLANEOUS		51
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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