

# BRIEFINGS

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## ACE CARGO RELEASE

- Only five months from the Nov. 1 transition of cargo release to the Automated Commercial Environment (ACE), Partner Government Agencies (PGAs) are finalizing message set requirements and running pilot programs, while brokers and software programmers are scrambling to prepare.

- Customs [posted](#) a draft version of the ACE cargo release business process on May 15. It includes PGA import requirements and is expected to function as the cornerstone for the trade and Customs personnel. The draft is a living document and Customs will consider comments.

- Given the large volume of imports regulated by the Food and Drug Administration (FDA), that agency's release of its final [Supplemental Guide](#) on May 12 is an important step. The [Federal Register](#) notice for the FDA pilot program is to be published soon, with the pilot to begin in July. Contact Sean Murray with questions.

- The National Marine Fisheries Service recently announced its pilot program for the electronic submission of forms and data. 80 Fed. Reg. [32093](#) (June 5, 2015).

## FCPA CASE

The former CEO of Petro-Tiger admitted in a federal Foreign Corrupt Practices Act (FCPA) trial that he [authorized](#) a bribe to a Colombian government official. He now faces jail time and a fine of up to \$250,000 under a plea agreement. His sentencing is scheduled for June 23. He also agreed to pay restitution to Petro-Tiger of \$239,000.

## 2015 SEMINAR SCHEDULE

- 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

- June 18 - FTA Compliance
- July 16 - Buying/Selling Agents
- 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.

## ACE ENTRY TYPES DELAYED

Customs has announced a delay in the ACE implementation of 11 Entry Types, pushing back deployment from June 27 to Oct. 31. This includes FTZs, warehouse entries and withdrawals, and quota. This will leave only one day for live testing before the Automated Commercial System (ACS) transition to ACE on Nov. 1. CSMS [#15-000298](#) (May 22, 2015).

## AD/CVD EVASION

A Puerto Rico-based importer has been [sentenced](#) to 18 months in jail for evading over \$2 million in anti-dumping/countervailing duties (AD/CVD) on aluminum extrusions from China. The importer was transshipping the extrusions to Malaysia, where they would be repackaged and a false invoice created for importation into the U.S.

## FTA

- House Democrats voted against Trade Adjustment Assistance (TAA) Act renewal on June 12 after House Minority Leader Nancy Pelosi announced opposition to it and the subsequent fast-track legislation which allows for only an up or down vote by Congress on FTAs. Another vote will occur, possibly later this week. Without fast-track, the Trans-Pacific Partnership is in jeopardy.

- The House and Senate passed the Trade Preferences Extension Act of 2015 (H.R. [1295](#)), which includes extensions of GSP, AGOA, and trade preferences for Haiti. The House bill added tariff changes for certain outerwear and footwear, requiring a conference committee to work out the differences.

- The U.S. Trade Representative (USTR) has released a [report](#) on how exporters will benefit from the Trans-Pacific Partnership.

## AES REQUIREMENTS

On May 22, the Bureau of Industry and Security (BIS) published a Proposed Rule that would require Automated Export System (AES) filings to include:

- The ECCN (including EAR99 goods);
- The country of ultimate destination; and
- Exports to Canada for goods controlled for NS, MT, NP, or CB reasons.

In addition, BIS is proposing that the license number or export authorization symbol be added to other export documents. Comments are due by July 6. Contact Jerry Greenwell with questions. 80 Fed. Reg. [29554](#) (May 22, 2015).

## CONTAINER DUTIES

In an important decision on the classification of containers, the U.S. Court of International Trade (CIT) has rejected the Customs classification of certain cell phone covers as "similar containers" in HTSUS subheading 4202.99.9000 (20%) and reclassified them in 3926.90.9980 (5.3%), a 75% reduction. Contact Brian Murphy with questions on obtaining duty refunds for similar containers. CIT Slip Op. [15-49](#) (May 26, 2015).

## CUBA SANCTIONS

On May 29, the [State Department](#) formally removed Cuba from the list of state sponsors of terrorism. Despite this removal, most Cuban sanctions will remain pending Congressional action. In a related action, the Office of Foreign Assets Control (OFAC) removed a number of Cuban entities from the Specially Designated Nationals (SDN) List. 80 Fed. Reg. [33025](#) (June 10, 2015); 80 Fed. Reg. [34053](#) (June 15, 2015).

## PERSONAL LIABILITY

The U.S. Supreme Court has [refused](#) to hear an appeal of the [Trek Leather](#) appeals court decision that held the president and sole shareholder of the importer of record directly liable for Section 1592 penalties for "introducing" the merchandise. It will be interesting to see how Customs utilizes this case for future enforcement. The decision may increase potential personal liability for Compliance personnel of importers. Contact Brian Murphy with questions.

## IRAN SANCTIONS

The State Department has published a notice on U.S. government sanctions relief under the "P5+1" Joint Plan of Action (JPOA) for Iran. The announcement by State only extends the waiver granted earlier in the negotiation process. If agreement is not reached by July 1, the full sanctions are scheduled to go back into effect. 80 Fed. Reg. [32193](#) (June 5, 2015).

## TOXIN ECCNs

The BIS has issued a Final Rule that changes Export Control Classification Numbers (ECCNs) for some human and animal pathogens and toxins. 80 Fed. Reg. [34266](#) (June 16, 2015).

## WTO ANTIDUMPING EVASION

The World Trade Organization (WTO) has [requested](#) input from members on the problem of goods being transhipped to have the county of origin falsified in order to evade AD/CVD duties.

## WASSENAAR UPDATES

- BIS has issued a Final Rule with updates to changes from the Wassenaar Arrangement that affect classifications in each of the 10 Categories of the Commerce Control List (CCL). 80 Fed. Reg. [29431](#) (May 21, 2015).
- BIS has published a Proposed Rule to comply with the recent Wassenaar Arrangement's adoption of export control requirements on certain types of intrusion surveillance products. New ECCN's are proposed for Category 4 and Category 5-1. Comments are due July 20. 80 Fed. Reg. [28853](#) (May 20, 2015).

## FDA IMPORTER PROGRAM

The FDA is seeking comments by August 19 on its draft Voluntary Qualified Importer Program (VQIP) [guidance](#) to be launched in 2017. The VQIP will provide benefits for food importers by expediting laboratory analyses and reducing examinations. 80 Fed. Reg. [32136](#) (June 5, 2015).

## DDTC/BIS HARMONIZATION

On May 22, the Directorate of Defense Trade Controls (DDTC) issued a Proposed Rule with a number of changes specific to the ITAR and to harmonize its Destination Control Statement (DCS) with BIS. BIS has also issued a Proposed Rule to harmonize the DCS. Comments are due July 6. 80 Fed. Reg. [29565](#) (May 22, 2015); 80 Fed. Reg. [29551](#) (May 22, 2015).

## C-TPAT FOR EXPORTERS

Last month we reported in Briefings that Customs was opening the Customs-Trade Partnership Against Terrorism (C-TPAT) to exporters on May 16. However, Customs delayed the launch until June 1. CSMS [#15-000301](#) (May 26, 2015).

## KNIVES RULING

Showing that all angles need to be considered before requesting a ruling, Customs recently responded to a classification ruling request from United Cutlery by ruling the "folding" knife violated prohibitions on switchblade imports, deeming the knife to be inadmissible. [HQ H263979](#) (May 29, 2015).

## ITAR AND U.S. PERSONS

The DDTC has published a Proposed Rule to clarify the International Traffic in Arms Regulations (ITAR) licensing and registration requirements for U.S. persons providing defense services to non-U.S. employers. Comments are due July 27. 80 Fed. Reg. [30001](#) (June 10, 2015).

## ISF Q & A

Customs recently [posted](#) a lengthy list of responses to questions on the updated approach to Importer Security Filing (ISF) enforcement.

## BATFE ECR

On May 29, the Bureau of Alcohol, Tobacco, Firearms, and Explosives (BATFE) published a Final Rule removing some items from the U.S. Munitions Import List (USMIL) as part of the export control reform (ECR) effort. 80 Fed. Reg. [30615](#) (May 29, 2015).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 6/15/15		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	288	270
SUBZONES	733	579
PENDING		
ZONES	5	
SUBZONES	14	
MISCELLANEOUS	40	

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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4929 MAIN STREET  
KANSAS CITY, MO 64112  
816.561.4999  
FAX 816.561.5999  
E-MAIL [intllaw@millerco.com](mailto:intllaw@millerco.com)

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

233 BROADWAY, SUITE 2702  
NEW YORK, NEW YORK 10279