

BRIEFINGS

VOLUME 25, NO. 7

July 15, 2013

ISF FULL ENFORCEMENT

- Customs began full enforcement of the Importer Security Filing (ISF) requirement on July 9 and will issue liquidated damages of up to \$5,000 per ISF violation against importers and carriers for non-compliance. CSMS [#13-000298](#) (June 7, 2013).
- L.A./Long Beach Customs began additional enforcement actions including cargo holds, and Non-Intrusive Inspection (NII) and intrusive exams on July 15. [LA13-026](#) (July 12, 2013).
- Customs has released a "[Are You Prepared For Mandatory ISF Compliance?](#)" presentation.
- Companies should have ISF procedures in place to ensure compliance, avoid costly exams, and support mitigation if liquidated damages are assessed. Contact Sean Murray with questions.

EXPORT REFORM

On July 8, the Bureau of Industry and Security (BIS) and the Directorate of Defense Trade Controls (DDTC) published a Final Rule moving many parts of military vehicles and submersible vessels from the U.S. Munitions List (USML) to the Commerce Control List (CCL). Several new Export Control Classification Numbers (ECCNs) in Categories "0," "8," and "9" will be added to the CCL. The new rule will not take effect until January 6, 2014. 78 Fed. Reg. [40892](#) (July 8, 2013); 78 Fed. Reg. [40922](#) (July 8, 2013).

CUSTOMS RETIREMENT

Long-serving Customs Chief Counsel Alfonso Robles recently retired.

WEBINARS

- August 8 - Export Reform
 - September 5 - Exporting Technology/Deemed Export
- Register for the webinars at our [eStore](#) or contact [Victoria Denney](#).
- Podcasts of past [webinars](#) are available on our website.

SEMINARS

- Oct. 8/9 - FTZ 101 & FTZ 201
 - Nov. 12/13 - Import/Export 101 & Import/Export 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

U.S. – EU FTA

- On June 17, 2013, President Obama and leaders from European countries announced the formal launch of a U.S.-European Union FTA to begin in July.
- A set of European Commission member position papers sent to the U.S. and EU members in advance of the discussions have been [leaked](#).

ENERGY CONSERVATION

Customs has published a Final Rule, effective August 5, 2013, that amends regulations regarding Customs refusal of consumer goods that are not labeled according to the energy labeling standards in the Energy Policy and Conservation Act of 1975. Customs has agreed to exclude imported products and equipment not entered into the U.S. for consumption from the definition of a "covered import." Consider foreign-trade zone (FTZ) use. 78 Fed. Reg. [40388](#) (July 5, 2013).

GSP & BANGLADESH

- The Generalized System of Preferences (GSP) is scheduled to expire July 31, 2013, unless Congress passes legislation renewing it. If GSP expires, importers may continue to flag GSP eligible importations with the applicable SPI ("A" or "A+") to allow Customs to process automatic duty refunds if, and when, GSP is renewed. Consider using a FTZ to store GSP merchandise until renewal. CSMS [#13-000348](#) (July 12, 2013).
- Presidential Proclamation 8997 implements some GSP changes, including the suspension of Bangladesh as a GSP beneficiary developing country (effective September 3, 2013) in response to worker safety concerns. 78 Fed. Reg. [39947](#) (July 2, 2013).

ORIGIN MARKING

In response to a request filed by a domestic manufacturer, Customs ruled in [HQ H215535](#) (May 31, 2013) that the ultimate purchasers of lampposts and bases for origin marking purposes are the municipalities that purchase them and not the public. Customs ruled that the items that bear the name of a U.S. locality were excepted from marking requirements if the municipality necessarily knows their country of origin.

WCO CHANGES

The World Customs Organization (WCO) has [published](#) new tariff classification rulings, changes to the Explanatory Notes, and amendments to the WCO Compendium of Classification Opinions.

SMUGGLING

U.S. Immigration and Customs Enforcement (ICE), working with Customs, [arrested](#) 5 individuals and indicted 3 companies for allegedly conspiring to smuggle into the U.S. Chinese aluminum subject to antidumping and countervailing duties that was falsely invoiced as, and repackaged in, Malaysia.

FDA UPDATE

- The Food & Drug Administration (FDA) will be conducting a Centralized Entry Review Pilot at 14 courier hub ports of entry to improve the efficiency and review of entries with the use of the FDA's electronic Import Trade Auxiliary Communications System (ITACS). This could lead to more questions for importers. [CSMS #13-000316](#) (June 19, 2013).
- The FDA has published a Proposed Rule on FDA administrative detention authority which allows inspectors to detain drugs suspected to be adulterated or misbranded in order to provide time for the FDA to consider further action. Comments are due September 13. 78 Fed. Reg. [42382](#) (July 15, 2013).

TARIFF CLASSIFICATION

The U.S. Court of International Trade (CIT) has decided that a beta-carotene product is classified under HTSUS (2002) subheading 2936.10.00, a duty-free provision for unmixed provitamins. In dicta, the CIT noted that "principal use" is not determinative of classification under the Pharmaceutical Appendix, rather consumers of the product itself must intend to use it in a pharmaceutical manner. [Roche Vitamins, Inc. v. U.S.](#), CIT Slip Op. [13-73](#) (June 14, 2013).

ATPA

The Andean Trade Preference Act (ATPA) will [expire](#) July 31 unless renewed by Congress. Ecuador is the only eligible country, but renewal is doubtful if Ecuador gives ex-National Security Agency contractor, Edward Snowden, asylum.

CANADA COOL RETALIATION

The Canadian government recently released a [list](#) of 37 U.S. exports, including certain frozen orange juice, jewelry, stainless steel tubes, and other goods, that it has targeted for possible retaliation in response to the USDA's recently published, controversial Final Rule amending the Country of Origin labeling (COOL) requirements for certain meat products. Public comments to the Canada Gazette [notice](#) are due by September 30.

CUSTOMS MODIFICATION

Customs has proposed modifying a ruling to reclassify molded plastic watch boxes from HTSUS subheading 4202.99.9000 (20%) as other containers and cases to HTSUS subheading 3923.10.00 (3%) as articles for the conveyance or packing of goods of plastic. Comments are due by August 2. 47 Cust. B & Dec. [85](#) (July 3, 2013).

SOFTWARE FEES

In a recent ruling, Customs concluded that certain potential payments made by an importer to its related party manufacturer would not be part of the price actually paid or payable, or additions thereto, for software alterable machines. The machines were fully functional at time of importation, and post-importation license fees were paid for additional software. Contact Marshall Miller with questions. HQ [H239671](#) (June 7, 2013).

EIP/RLF HANDBOOK

Customs has [published](#) an Electronic Invoice Program (EIP)/ Remote Location Filing (RLF) Handbook. [CSMS #13-000317](#) (June 20, 2013).

BUY AMERICAN - VALVES

Customs has issued a final determination for purposes of granting waivers of certain "Buy American" restrictions which concludes that plug-type valves are a U.S.-made end product that are substantially transformed. 78 Fed. Reg. [38728](#) (June 27, 2013).

OFAC UPDATES

- The Treasury's Office of Foreign Assets Control (OFAC) has amended its Terrorism Sanction Regulations to clarify that any entity that is owned (more than 50%) or controlled by a blocked party is also blocked and that "financial, material, or technological support" includes any tangible or intangible support. 78 Fed. Reg. [38574](#) (June 27, 2013).
- OFAC has updated its list of [frequently asked questions](#) on Iran to include the recent actions under Executive Order 13645 and recent changes to the Iranian Sanction Regulations. 78 Fed. Reg. [33945](#) (June 5, 2013).

WASSENAAR UPDATES

- The BIS has published updates to the CCL that incorporate changes made to the Wassenaar List of Dual Use Goods and Technologies. 78 Fed. Reg. [37371](#) (June 20, 2013).
- The BIS has published Missile Technology Control Regime (MCTR) updates to the Export Administration Regulations (EAR) and CCL. 78 Fed. Reg. [42430](#) (July 16, 2013).
- The BIS has corrected errors in the EAR regarding the June 5 Australia Group changes. 78 Fed. Reg. [39971](#) (July 3, 2013).

SYRIAN LICENSE

OFAC has published General License (GL) 11A for certain exports to Syria. GL 11A allows the export of goods by non-government organizations for certain humanitarian end-uses. 78 Fed. Reg. [38097](#) (June 25, 2013).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/13		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	283	266
SUBZONES	701	548
PENDING		
ZONES		4
SUBZONES		15
MISCELLANEOUS		60
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.
© 2013 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