

BRIEFINGS

VOLUME 25, NO. 10

October 15, 2013

GOVERNMENT SHUTDOWN

Some of the impacts from the federal government shutdown felt by the trade community include:

- CPSC - All of CPSC field and port inspectors have been furloughed.
- Customs – Some delays for cargo requiring release/review from other government agencies; Automated Commercial Environment (ACE) Deployment A has been postponed; ruling requests are not being processed; delays may occur in processing of Continuous Bonds; and ABI Client Representatives are not working.
- Foreign-Trade Zones Board - Offices are closed.
- FDA – Some delays in releases are occurring.
- EPA – Offices handling Notices of Arrival (NOA) for pesticide imports are closed.
- 17 trade associations have joined forces to [submit](#) a letter asking that EPA employees responsible for NOA reviews be deemed essential.
- Bureau of Industry and Security (BIS) – Export license applications, commodity classification requests, and advisory opinion requests are not being accepted.
- HTSUS – The Harmonized Tariff Schedule of the United States is unavailable on the International Trade Commission's website.

ISF ENFORCEMENT

LA/Long Beach Customs has [added](#) additional enforcement measures in order to cope with non-compliance in Importer Security Filing (ISF) requirements. Customs will begin holding consolidated shipments if no ISF is on file 48 hours prior to arrival.

FALL SEMINARS

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

UPCOMING WEBINAR

- October 31 (Halloween) - "Scary Stories" on import/export penalties and issues.
 - November 21 - Import/Export/ FTZ Compliance Planning for 2014.
- Register for webinars at our [eStore](#) or contact [Victoria Denney](#). Past [webinars](#) are available on our website.

EXPORT REFORM

- Despite the government shutdown, the first export reforms take effect on October 15, with a number of items on the U.S. Munitions List (USML) moving to the Commerce Control List (CCL).
- Both BIS and the Directorate of Defense Trade Controls (DDTC) have published clarifications and corrections to the originally published rules that go into effect on October 15. 78 Fed. Reg. [61743](#) (Oct. 3, 2013); 78 Fed. Reg. [61749](#) (Oct. 3, 2013).

CCL UPDATE

The BIS has published a major update to the CCL. These changes, although covering a large number of Export Control Classification Numbers (ECCNs), are to make the CCL easier to understand. No substantive changes were made. Most of these changes become effective October 15. 78 Fed. Reg. [61873](#) (Oct. 4, 2013).

MEXICO TAX REFORM

The Mexican President has submitted for approval by the legislative branches a tax reform proposal that would significantly impact Mexican importers and maquiladora operators by, among other things:

- changing VAT and income tax laws for maquila operations;
- amending the IEPS tax rules for temporary imports;
- altering transfer pricing rules between parent companies and maquila subsidiaries;
- no longer requiring importers and exporters to use a customs broker for filing;
- implementing electronic filing of pedimentos; and
- broadening the time period to rectify pedimentos.

The proposed reforms would have a "[catastrophic](#)" effect on the maquila industry if implemented, according to Mexican PAN Congressman Carlos Angulo. Final legislative votes are scheduled for late October. Contact Marshall Miller with questions.

C-TPAT/ISA COMBO PILOT

Customs has [released](#) a webinar presentation on a planned pilot Trusted Trader Program (TTP) that will combine Customs-Trade Partnership Against Terrorism (C-TPAT) and the Importer Self Assessment (ISA) Programs. The proposed framework would involve the Centers of Excellence and Expertise (CEEs) managing accounts, some integration with Partner Government Agencies, and proposed incentives. Importers that are both C-TPAT and ISA participants would be automatically transitioned into the program.

ACE TSN

At the September 26 and 27 ACE Trade Support Network (TSN) Plenary Session in Washington, D.C., significant discussion occurred relating to ACE Deployment A, whose October 5 deployment was delayed by the shutdown. It includes ACE Cargo Release Pilot (also known as Simplified Entry) expansion, Partner Government Agency (PGA) message set pilots, and Automated Export System (AES) re-engineering in ACE. Customs has [posted](#) its presentations. Contact Linda King, who attended on behalf of the firm, with questions.

AES RE-ENGINEERING

AES is being re-engineered in ACE. Legacy AES will be retired in April 2014. According to government officials at the ACE TSN, AESDirect will be retained for the time being. Goals for the re-engineered AES include:

- New BIS data elements
- BIS License Decrementation
- Improved visibility of BIS license data
- Improved edits & validations
- Notifications when exports are subject to a license requirement
- New Advanced Export Information (AEI) pilot, with post-departure data being filed within 5 calendar days. Contact Chuck Ballard or Jerry Greenwell with questions.

FOIA AND EXPORT LICENSES

A California District Court has determined that the BIS cannot rely on a portion of the expired Export Administration Act (EAA) to protect export licensing information under the Freedom of Information Act (FOIA). [Electronic Frontier Foundation v. Department of Commerce](#), USDC No. C3:12-cv-03683 TEH (July 12, 2013).

"MADE IN CALIFORNIA"

Governor Jerry Brown has signed legislation ([SB12](#)) creating the "Made in California Program" to regulate "Made in California" product claims.

ASSIST WHISTLEBLOWER

A former OtterBox employee has filed a False Claims Act whistleblower suit against the company for its alleged failure to declare the value of engineering assists on Customs entries. The company has moved to dismiss the suit because it prior disclosed the undervaluation after the employee's departure and before the suit's filing. [U.S. ex rel. Bonnie M. Jimenez v. Otter Products, LLC](#), Case No. 1:11-cv-02937-RM-MJW (D. Colo. Sept. 26, 2013).

SHIPPING VIA IRAN

According to a September 26 Wall Street Journal article, Pentagon contractor [Anham FZCO](#) routed food and supplies for U.S. troops in Afghanistan through Iran. A spokesman for the company has indicated that a "third party vendor" arranged the transportation and that the company already filed a voluntary self-disclosure with the Treasury Department.

ITDS & FDA

The Memorandum of Understanding (MOU) that would allow the Food and Drug Administration (FDA) and Customs to share importer filing information through the International Trade Data System (ITDS) is now with the FDA's Office of the General Counsel. Completion of the MOU and addition of the FDA would mark a major development for ITDS and the ACE.

SPECIALLY DESIGNED

The DDTTC has posted an [interactive tool](#) on its website to assist exporters in determining whether an item falls under DDTTC or BIS control, using the definition of "specially designed."

HONEY MISDECLARATIONS

A California woman has been [sentenced](#) to 3 years in prison and fined for her part in a scheme to avoid \$39.2 million in antidumping duties on honey by falsely declaring it as sugar, syrup, and apple juice concentrate.

IRAN FINE

United Medical Instruments (UMI) was fined by BIS for exporting ultrasound equipment to Iran without the required license via a Belgium intermediary. UMI continued to ship even after receiving a subpoena from the Office of Foreign Assets Control (OFAC) by using another intermediary. UMI was fined \$500,000, which will be suspended provided that they do not engage in further export violations. The company's Chief Operational Officer and International Sales Manager was placed on the denied parties list for 6 years and fined \$800,000. 78 Fed. Reg. [61949](#) (Oct. 8, 2013).

IIT TRUCKS & TRAILERS

In [HQ H242646](#) (Sept. 13, 2013), Customs ruled that Canadian-based trucks and trailers are prohibited by the Instruments of International Traffic (IIT) rules from carrying U.S. cargo from New York to Michigan via Canada because they would engage in local, not international, traffic.

TPP

Negotiators from 12 nations in the Trans-Pacific Partnership (TPP) have announced significant progress in the areas of market access, services, financial services, and government procurement according to a White House [statement](#) released on October 8. They expect to complete negotiations by year-end if agreement can be reached on intellectual property, environmental, and state-owned enterprise issues.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/13		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	283	266
SUBZONES	705	552
PENDING		
ZONES		5
SUBZONES		15
MISCELLANEOUS		45
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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