

# BRIEFINGS

VOLUME 26, NO. 10

October 15, 2014

## PERSONAL LIABILITY

In an en banc decision, the Court of Appeals for the Federal Circuit (CAFC) has upheld an individual's liability for Section 1592 penalties. The decision has trade compliance personnel concerned about their potential individual liability for Section 1592 penalties. Contact Marshall Miller or Sean Murray with questions. U.S. v. Trek Leather, Inc., et al., CAFC Slip Op. [2011-1527](#) (Sept. 16, 2014).

## ISF ENFORCEMENT

- Customs advised ports in May to focus on the more egregious Importer Security Filing (ISF) violators and "significantly late" filings.
- The Port of Los Angeles/Long Beach increased its ISF enforcement on October 1. It will continue to place manifest holds on cargo that does not have an ISF on file 72 hours before vessel arrival. Customs will manually monitor existing holds and, after the ISF is submitted, will decide if additional enforcement actions, including liquidated damages for repeat offenders, are needed. CSMS [#14-000520](#) (Sept. 29, 2014).

## ALUMINUM EXTRUSIONS

The Court of International Trade (CIT) has ordered the Department of Commerce to supply a clearer definition of "finished merchandise" excluded from the antidumping duty (ADD) and countervailing duty (CVD) orders on Chinese aluminum extrusions and to explain its relationship to the "finished goods kit" exclusion. Rubbermaid Commercial Products LLC v. U.S., CIT Slip Op. [14-113](#) (Sept. 23, 2014).

## FALL SEMINARS

- Nov. 11 - Import/Export 101
- Nov. 12 - Import/Export 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).
- The firm will shortly release its 2015 Seminar schedule. Check the firm's website for details.

## UPCOMING WEBINARS

Upcoming Webinars:

- November 20 - CBP Audit Management
- December 18 - Increasing FTZ Savings
- Register for webinars at our [eStore](#) or contact [Victoria Denney](#). Past [webinars](#) are available on our website.

## ANNOUNCEMENTS

- Brian J. Murphy, former Senior Associate, has become a Partner in the firm.
- Luke Vogel has joined the firm as the Import/Export Compliance Director. Luke was most recently the International Trade Compliance Manager for the Microbiology Division at Thermo Fisher Scientific. Previously he worked for two broker/forwarders and served in the U.S. Marine Corps.

## CBP FOCUSED ASSESSMENTS

Updates to the Customs Focused Assessment [program](#) went into effect on October 1. Changes include increased sample sizes. Expect more extensive Focused Assessments. Contact Sean Murray or Brian Murphy with questions.

## RUSSIA

- On September 17, the Bureau of Industry and Security (BIS) imposed additional sanctions in the oil and defense industries. A number of major Russian oil and gas entities were added to the entity list. These entities are restricted only when the end use is related to deep water, Arctic, or shale production and exploration activities. Certain products and ECCNs require a license regardless of the end user. 79 Fed. Reg. [55608](#) (Sept. 17, 2014).
- President Obama has removed Russia from the list of countries eligible for preferential treatment under Generalized System of Preferences (GSP). 79 Fed. Reg. [60945](#) (Oct. 8, 2014).

## CPSC

On September 18 the Consumer Product Safety Commission (CPSC) collected input from industry and other agencies at a workshop on electronic Certificates of Compliance. Sean Murray presented on behalf of the National Association of Foreign-Trade Zones (NAFTZ). The CPSC is accepting comments on the e-certificate process through October 31. Contact Sean with questions.

## CENSUS REORGANIZATION

On September 30, the Census Foreign Trade Division officially became the [International Trade Management Division](#) (ITMD). The AES Branch is now the Data Collection Branch. The Regulations, Outreach and Education Branch is now the Trade Regulations Branch and the Trade Outreach Branch. Contact Jerry Greenwell with questions.

## EAR AND CCL UPDATES

BIS has published an Interim Rule that adds new Export Control Classification Numbers (ECCNs) relating to read-out integrated circuits used in collision avoidance systems, helicopter radar, and seismic intrusion detection equipment used in monitoring earthquakes and to track the movement of vehicles and equipment. Comments on the new controls are due December 15. 79 Fed. Reg. [61571](#) (Oct. 14, 2014).

## KNOWN IMPORTERS

Customs has [posted](#) a draft update to the Customs and Trade Automated Interface Requirements (CAAIR) that includes a "Known Importer" indicator. The National Customs Brokers & Forwarders Association of America (NCBFAA) previously suggested a program that would allow brokers to flag entries for clients that have completed a questionnaire on their import practices. The hope is for the "known importer" to obtain benefits from Customs.

## AGOA COMMENTS

The Office of the U.S. Trade Representative (USTR) is conducting its annual review of countries eligible for benefits under the African Growth and Opportunity Act (AGOA). Comments are due by October 25, 2014. 79 Fed. Reg. [59342](#) (Oct. 1, 2013).

## USDA FORM 505 SUBMISSION

The U.S. Department of Agriculture (USDA) has [launched](#) the Lacey Act Web Governance System, which allows importers to submit the Plant Protection and Quarantine Form 505 electronically.

## DONATIONS ACCEPTED

Customs and the General Services Administration (GSA) are [accepting](#) donations from the private sector and other governmental agencies to update and renovate infrastructure. Customs and the GSA will be holding a live teleconference in November for potential donors.

## FCPA AND SOES

The U.S. Supreme Court has refused to review an appellate court decision that ruled payments to an employee of a foreign government-owned telecommunications company were made to a "foreign official" in violation of the Foreign Corrupt Practices Act (FCPA). *U.S. v. Esquenazi, et al.*, 11 Cir. Case No. [11-15331](#) (May 16, 2014).

## ENCRYPTED DATA

BIS has fined Intel's [Wind River Systems](#) subsidiary \$750,000 for exporting encrypted data to government entities, including some on BIS's Entity List. Even though a voluntary disclosure was filed, Wind River was still fined a substantial amount because of the number of exports, and the violations took place over a three-year period.

## BIS FINES

- [Area S.p.A.](#), an Italian telecommunications company, was fined \$100,000 by BIS for exporting U.S. origin telecommunications equipment to Syria without the required license.
- [Harold Rinko](#) of Pennsylvania has pled guilty for exporting lab equipment to Syria. He is facing up to 5 years in prison and a \$250,000 fine.
- A Belgian subsidiary of [Robbins & Myers](#) was fined \$1,000,000 for exporting stators used in oil extraction to Syria. It was also placed on corporate probation. The U.S. parent discovered the violation and ordered the Belgian company to stop shipments, but it continued to ship and employees made attempts to hide the shipments.

## RELIQUIDATION

Following the denial of its protest in HQ H215035 (April 18, 2014), the importer of merchandise subject to antidumping duties (ADD) has filed suit in the CIT to challenge the Customs liquidation of its entries by posting a notice of deemed liquidation, even though the entries had been deemed liquidated 3 years earlier. HQ [H215035](#) (April 18, 2014).

## EXPORT PRIVILEGES

- BIS has denied export privileges to Horizon RX Systems for 10 years following the conviction of its president for exporting power amplifiers without the required license to China. 79 Fed. Reg. [60807](#) (Oct. 8, 2014).
- Mr. Ming Suan Zhang has lost his export privileges for 10 years for exporting carbon fiber to China without the required export license. 79 Fed. Reg. [56559](#) (Sept. 22, 2014).
- [X-Treme Motors and Outdoors](#) has had its export privileges revoked for exporting rifle sights and other controlled items to Russia and China without the required license. 79 Fed. Reg. [60445](#) (Oct. 7, 2014).

## DRUG SMUGGLING

The Department of Justice has [indicted](#) three people on felony charges of smuggling unapproved and misbranded drugs from China. The defendants allegedly smuggled at least 30 shipments of 100,000 imitation pills. The FDA additionally alleges they intentionally lowered values, falsified labels, and used multiple addresses.

## OFAC CONSOLIDATION LIST

The Office of Foreign Assets Control (OFAC) has provided [a consolidated list](#) of the various OFAC lists (Specially Designated Nationals, Sectoral Sanctions, Sanction Evaders, etc.).

## FSIS REGULATIONS

The Food Safety Inspection Service (FSIS) has amended its meat, poultry, and egg product import regulations. 79 Fed. Reg. [56220](#) (Sept. 19, 2014).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/14		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	286	268
SUBZONES	721	567
PENDING		
ZONES	5	
SUBZONES	15	
MISCELLANEOUS	37	

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