



# BRIEFINGS

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## TRUMP TRADE POLICY

The election of Donald Trump as the next U.S. President raises numerous questions on future U.S. trade policy. Presidents have been delegated significant authority to impose increased duties, withdraw from trade agreements, and impose import restrictions. A question is whether President-elect Trump will use these powers. The Trans-Pacific Partnership (TPP) may be abandoned or renegotiated, NAFTA and other FTAs could be renegotiated, and the Iranian and Cuban sanctions relief could be reversed. Clients are encouraged to proactively consider potential impacts on supply chains and plan for contingencies. [For more detailed information, the firm has issued a client update.](#) Contact Marshall Miller, Sean Murray, Brian Murphy, or Chuck Ballard with questions.

## EGA

- A ministerial negotiation that begins December 3<sup>rd</sup> could conclude the WTO Environmental Goods Agreement (EGA).
- A European advocacy group claims that only 5% of the 304 items on the draft EGA product list have a meaningful positive impact on the environment. Clients should review product lists to determine potential benefits. A draft [product list](#) was issued by the USTR in 2014.
- The USTR is accepting public comments through November 21 on the interim environmental impact review of the EGA. 81 Fed. Reg. [73191](#) (Oct. 24, 2016).

## MTB

The deadline to submit petitions for temporary Miscellaneous Tariff Bill (MTB) duty suspensions and reductions is December 12. The U.S. International Trade Commission (ITC) has issued [guidance](#) to help filers in drafting product descriptions. Contact Brian Murphy with questions.

## 2016 SEMINAR DATES

The firm has two more seminars before the end of the year:

- December 6 & 7 - FTZ 101 & 201 Seminars are offered to Miller & Company clients only. For more details contact [Ann Brandt](#).

## 2017 HTS CHANGES

The World Customs Organization (WCO) has [published](#) 233 amendments to the Harmonized System (HS) Nomenclature, effective January 1, 2017. The amendments include some new tariff provisions for biologics, light-emitting diodes, integrated circuits, and electric vehicles. Companies need to review these changes to ensure accurate classifications for 2017 shipments.

## 2017 HTS & FTAs

Clients working on 2017 free trade agreement (FTA) eligibility determinations are reminded that the changes to the 2017 HTS nomenclature do not usually impact FTA tariff-shift rules of origin. The HTS in effect at the time of the FTA adoption is generally to be applied, unless updated by the parties. Contact Sean Murray or Brian Murphy with questions.

## DRAWBACK

Clients should explore expanded opportunities for drawback under the newly liberalized rules created by the [Trade Facilitation and Trade Enforcement Act of 2015](#). These new rules will allow drawback claims that were not previously possible, most importantly fees and taxes. There are many concerns as Customs implementing regulations have not yet been written, line item filing requirements will significantly increase the volume of drawback submissions, joint and several party liability must be managed, and there is a Congressional "revenue neutral" requirement. Contact Marshall Miller with questions.

## ACE & PGAs

As the December 31, 2016 deadline for transitioning to ACE fast approaches, there are still many unanswered questions about Partner Government Agencies (PGAs), particularly Fish & Wildlife Service (FWS) and Animal Plant and Health Inspection Service (APHIS) "Core" requirements. We strongly encourage everyone with PGA-regulated products to carefully review the transition timeframes and data reporting requirements. Contact Linda King with PGA questions.

## NAFTZ ANNUAL CONVENTION

- At the recent National Association of Foreign-Trade Zones (NAFTZ) Annual Conference, significant time was spent discussing the process of ensuring that FTZs are operating within their Foreign-Trade Zone Board-approved Scope of Authority. Discussion included the need to make certain adjustments to the concepts of Production Authority and Scope of Production Authority in the FTZ Board regulations. Contact Scott Taylor with questions.
- An FDA speaker stated that industry would be pleased with the FDA Final Rule on ACE import requirements that is expected to be issued before year-end. This presumably indicates that the FDA will not require some of the data elements specified in its July 1 Proposed Rule.
- Customs made it clear that it and the FTZ Board do not support the "virtual FTZ" concept from the Trusted Trader group that would allow Weekly Entry without merchandise actually utilizing or transiting a physical foreign-trade zone location.

## FWS PORT PERMITS

The Fish and Wildlife Service (FWS) said in an October 18 [public bulletin](#) that it will no longer issue Designated Port Exception Permits.

## ACE RECONCILIATION

CBP released a list of Frequently Asked Questions (FAQs) on ACE Reconciliation. In January, Reconciliation filings will be required in ACE. Clients are encouraged to complete reconciliations in ACS before the change. Contact Sean Murray with questions.

## ITA EXPANSION

The World Trade Organization (WTO) has [announced](#) that 18 of the 24 participants in the expanded Information Technology Agreement (ITA) have implemented their tariff commitments, including the U.S. which implemented the changes in July, eliminating Customs tariffs on products valued at over \$1.3 trillion in annual trade. Full implementation is expected in the near future.

## JUSTICE VSD GUIDANCE

The Department of Justice (DOJ) has issued [guidance](#) related to voluntary self-disclosures (VSDs) of export violations when such violations are willful and potentially criminal. DOJ issued this guidance to encourage VSDs even when there has been a willful violation.

## AD/CVD EVASION

Customs has extended the comment period for its Interim Final Regulations on investigations of evasion of antidumping and countervailing duties (AD/CVD) brought by whistleblowers. Comments are due by Dec. 20, 2016. 81 Fed. Reg. [72692](#) (Oct. 21, 2016).

## MADE IN USA

A class action lawsuit has been filed in U.S. District Court against a supplement manufacturer for selling vitamins that are allegedly falsely labeled "Made in USA" in violation of the Florida deceptive trade practice law because the vitamins are said to contain foreign-sourced Vitamin C. [Jennifer Sweat, et al. v. NBTY, Inc.](#), No. 3:16-cv-00940-MMH-PDB (M.D. Fla. July 22, 2016).

## EPA WASTE RULE

The Environmental Protection Agency (EPA) has issued a [Pre-Publication copy](#) of a Final Rule on international shipments of hazardous waste that is to go into effect on December 31, 2016. It includes electronic reporting requirements, use of the new EPA Waste Import Export Tracking System (WIETS), and staged implementation.

## AES 2017 PGA REQUIREMENTS

Customs Outbound Branch Chief Robert Rawls indicated at the recent Bureau of Industry and Security (BIS) Update Conference that regulations for PGAs relating to Automated Export System (AES) filing requirements will be published in the next 6-12 months. A preview of what may be required can be found in Appendix Q of the AES Trade Interface Requirements ([AESTIR](#)).

## LICENSE APPLICATIONS

Deputy Assistant Secretary Matthew Borman indicated at the BIS Update that license applicants need to provide more complete consignees and use information when applying for export licenses. Many denied licenses are reconsidered when additional information is submitted.

## ARMS EMBARGOES LIFTED

The BIS has implemented changes to the Export Administration Regulations (EAR) to reflect the lifting of U.S. arms embargoes on the Ivory Coast, Liberia, Sri Lanka, and Vietnam. In addition, India is recognized as a member of the Missile Technology Control Regime. 81 Fed. Reg. [76859](#) (Nov. 4, 2016).

## FDA FOOD IMPORTS

The FDA has issued a guidance document on its upcoming Voluntary Qualified Importer Program (VQIP) trusted trader program for food importers. FDA will begin accepting applications on January 1. Participation will be limited to 200 applicants for the first year.

## MORE ALUMINUM EXTRUSIONS

The Department of Commerce has preliminarily determined that heat-treated 5050-grade aluminum alloy extruded products are later-developed merchandise that circumvents the Antidumping and Countervailing Duty (AD/CVD) Orders on aluminum extrusions from China. 81 [Fed. Reg.](#) 79444 (Nov. 14, 2016).

## SANCTIONS PENALTY

National Oilwell Varco and its subsidiaries Dresco Energy Services and NOV Elmar (NOV) were [fined \\$5,976,028](#) by the Office of Foreign Assets Control (OFAC) and agreed to pay \$25 million for shipments made with knowledge the goods would ultimately go to Iran and other sanctioned destinations. In addition, senior level executives facilitated transactions and had knowledge of commission payments made to a UK company related to Iran sales.

## CUBA UPDATE

The Office of Foreign Assets Control (OFAC) and the BIS have issued Final Rules to lift some of the Cuban sanctions. These changes allow the import of Cuban pharmaceuticals, joint medical research, and the opening of bank accounts related to the above. Some additional allowances for humanitarian transactions and purchases when traveling to Cuba are also provided. OFAC also published a [Fact Sheet](#), changes to its [Frequently Asked Questions \(FAQs\)](#), and updated its [Travel Guidance](#) document. 81 Fed. Reg. [71372](#) (Oct. 17, 2016) and 81 Fed. Reg. [71365](#) (Oct. 17, 2016).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	292	274
SUBZONES	760	606
PENDING		
ZONES	3	
SUBZONES	18	
MISCELLANEOUS	45	

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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