



COMMERCE DEPT.

Wilbur Ross has been [confirmed](#) as the Secretary of Commerce. This makes him the new Chair of the Foreign-Trade Zones Board.

NAFTA RENEGOTIATION

Comments continue on NAFTA renegotiation:

- U.S. Commerce Secretary Ross has stated that the negotiations could be trilateral or as separate, "parallel bilaterals."
- Canadian and Mexican ministers have stated that the negotiations should be trilateral.
- Negotiations could begin as early as this summer.
- Strengthened rules of origin, requiring more originating content, are a likely focus, as is an expansion into other subjects covered in more recent U.S. FTAs.
- Commerce and Customs advisory committees are developing recommendations. Clients are encouraged to provide input.

MEXICO - EU FTA

As an interesting comparison to U.S. discussions over NAFTA re-negotiation, Mexico and EU representatives met recently to find ways to accelerate an update to the [EU-Mexico FTA](#) by the end of 2017.

TPP

At a March 7 meeting, Ambassadors from South Korea, Vietnam, and Australia indicated they intend to move forward with the Trans-Pacific Partnership (TPP) with or without the U.S.

FOREIGN NATIONALS

On March 6, President Trump issued a new Executive Order to restrict entry into the United States of nationals of Iran, Libya, Somalia, Sudan, Syria, and Yemen. E.O. [13780](#).

2017 SEMINARS

The firm seminar schedule for 2017 is:

- March 28 & 29 - Import-Export 101 & 201
- March 30 - Advanced Export
- April 4 & 5 - FTZ 101 & 201
- September 12 & 13 - FTZ 101 & 201
- October 3 & 4 - Import-Export 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact Carrie Hatch.

\$1.19 BILLION ZTE FINE

The U.S. Department of Justice ([DOJ](#)), Office of Foreign Assets Control ([OFAC](#)), and Bureau of Industry and Security ([BIS](#)) have settled with Zhongxing Telecommunications Equipment Corp. (ZTE) and its subsidiaries for ZTE's role in re-exporting U.S. goods to Iran and North Korea. Under the terms of the settlement, ZTE was penalized \$1.19 billion. A 7-year denial of export privileges and a portion of the fine were suspended, provided ZTE complies with the settlement agreement. The penalty was high in part because ZTE's management was actively involved in the diversion activities and lied to U.S. investigators. Contact Chuck Ballard with questions.

FTZ ANNUAL REPORTS

- FTZ Board Annual Reports are due March 31. Clients are urged to transmit their Annual Reports if they have not done so already.
- FTZ Annual Reconciliations should be sent to Customs by April 10 for FTZs that operate on a calendar year.
- Clients are encouraged to have Linda King review documents before submission.

CBP AUDIT SURVEYS

Customs continues its heightened emphasis on enforcement, including Importer Audit Surveys focused on antidumping/countervailing duties (AD/CVD) and other priority trade issues. Customs conducts significant background preparation work for these "light audits." Clients should take steps to verify the potential applicability of AD/CVD by understanding AD/CVD scope language and verifying AD/CVD flags for their imports. Contact Brian Murphy with questions.

REGULATIONS

- President Trump issued an Executive Order on February 24 that each government agency create a [regulatory](#) reform task force to evaluate existing regulations for repeal or modification. 82 Fed. Reg. [12285](#) (March 1, 2017).
- At the March 1 Commercial Customs Operations Advisory Committee (COAC) meeting, the Departments of Treasury and Homeland Security and U.S. Customs asked industry to submit suggestions on regulations that could be repealed.

EXEC BRANCH REORG

President Trump has issued an Executive Order on reorganizing the Executive Branch. It instructs agency heads to submit plans within 180 days to reorganize or eliminate agencies and includes a public comment period. The Director of the Office of Management and Budget is to submit a reorganization plan to the President within 180 days of the close of the public comment period. Reorganization could significantly impact government jobs, current agency work, and new policy implementation. E.O. [13781](#) (Mar. 13, 2017).

POST-LIQUIDATION FTA CLAIMS

Customs has reversed a 2014 policy on post-liquidation duty preference claims. Customs is asking importers to resubmit protests to the appropriate field offices within 180 days of February 15.

ACE TIB PROCESS

Customs has issued an interim process for closing out Temporary Importation Bonds upon exportation. CBP Form 3495s are to be presented at the port of export. CSMS #17-000135 (March 9, 2017).

BUSINESS RECORDS

Customs has rejected a claim that heat crystals should be classified as business records. The importer sends the crystals to customers to test, then keeps them to document the results. HQ [H264475](#) (Jan. 11, 2017).

AD/CVD EVASION

A New Jersey pool chemical company and its president were [sentenced](#) in federal district court to 3 years' probation and 8 months in prison plus 4 months home confinement, respectively, and ordered to pay \$2.25 million and \$500,000 in connection with a scheme to avoid antidumping duties assessed at 286% on imported China-origin pool chemicals. The scheme involved double-invoicing, rebates, a shell company, and transshipment through Vietnam to disguise the China-origin chemicals and their value.

FESTIVE ARTICLES

The CIT has issued a decision that Christmas and Thanksgiving-themed dinnerware should not be classified as articles used in religious or cultural ritual celebrations of HTSUS 9817.95.01 because Christmas and Thanksgiving dinners are not specific ritual celebrations. [WWRD U.S., LLC v. U.S.](#), CIT Slip Op. 17-21 (Mar. 1, 2017).

GOV'T PROCUREMENT

Customs has ruled that the origin of a Brazilian aircraft converted in the U.S. into a fire-fighting aircraft remains Brazil, the country of original manufacture, despite all of the conversion activities. HQ H280872 (March 6, 2017).

FTA CLAIMS

The U.S. Court of International Trade (CIT) has denied a company's claims for duty-free treatment under the Central America-Dominican Republic Free Trade Agreement (CAFTA-DR) because the company had tried to change the Importer of Record to a subsequent U.S. purchaser through a Post-Entry Amendment (PEA). Clients with separately incorporated divisions should carefully consider the potential impact of this decision on their FTA claims. Contact Sean Murray with questions. [La Nica Prod., Inc. v. U.S.](#), Slip Op. 17-9 (Feb. 2, 2017).

EXCISE TAX PENALTY

Gitano Pierre Bryant, the owner of a Florida cigar company, has been [sentenced](#) to 4 years in prison and ordered to pay over \$9 million in restitution for fraudulently evading \$13 million in Federal excise taxes on imported cigars by altering documents to conceal the price paid for the imported cigars.

CBP PERFORMANCE REPORT

Customs has [posted](#) its Performance and Accountability Report for fiscal year 2016. It provides an overview of activities and financial statements. Customs reports that it met its goal of 53% of cargo imported by members of trade partnership programs, exceeded its goal of 97.5% of imports being compliant with trade laws, but missed its goal of collecting 100% of revenue, having collected 99.06% in FY 2016.

EXPORT PENALTIES

- OFAC has fined [United Medical Instruments, Inc.](#) \$515,400 for exporting medical equipment to the United Arab Emirates with knowledge it would be re-exported to Iran.
- The DOJ has charged [AW-Tronics](#) with exporting dual use products to Syrian Arab Airlines.
- [Alexander Posobilov](#) was sentenced to 135 months in prison for his role in attempting to export microelectronics to the Russian internal security agency (FSB) and an entity that builds Russian air and missile defense systems.
- [Sihai Cheng](#) has been sentenced to 9 years in prison for exporting pressure transducers to Iran.

DOJ COMPLIANCE GUIDE

The U.S. Department of Justice has published an "Evaluation of Corporate Compliance Programs" guide for federal prosecutors to use in investigations that is also useful for companies to evaluate their own compliance programs.

BROKERAGE BUSINESS

Customs has ruled that a broker may simultaneously serve as an employee of a customs brokerage and freight forwarding entity, and draw a fixed salary from both entities, if the freight forwarding entity does not participate in any customs business and clients receive an itemized bill clearly identifying and distinguishing the brokerage services. [HQ H272715](#) (Feb. 7, 2017).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 3/15/17		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	292	274
SUBZONES	772	618
PENDING		
ZONES	3	
SUBZONES	17	
MISCELLANEOUS	44	

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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