

# BRIEFINGS

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## GREEN GOODS

Office of the U.S. Trade Representative (USTR) requested comments on what should be included in a new World Trade Organization duty free environmental goods agreement. Negotiations are to begin in the next few months. The USTR is requesting specific HTSUS classifications. Comments are due May 5, and there is a June 5 public hearing. 79 Fed. Reg. [17637](#) (March 28, 2014).

## CEE FOR FTZ ENTRIES

The Customs Centers of Excellence and Expertise (CEE) will now [process](#) FTZ Entry Summaries (Entry Type 06), and post summary issues for those entries for CEE participants. If the participant receives a "docs required" message for FTZ Entry Summaries, the participant will need to electronically transmit the necessary documentation through the Automated Commercial Environment (ACE) portal, Document Image System (DIS), or the Center's email address. Since FTZ issues have historically been handled by the Customs ports, this change could result in Customs inquiries and changes in practices. Contact Marshall Miller with questions.

## FTZ AUTOMATION CHECKLIST

Customs has posted an [FTZ Automation Participant Checklist](#) for FTZ Operators to utilize when requesting a Filer Code or, if they already have a Filer Code, advising of their intent to electronically file e-214s, In-Bond movements (QP/WP or QX/WX), and/or Entry/Entry Summaries directly with Customs.

## 2014 SEMINAR SCHEDULE

- May 20-21 - Import/Export 101 & 201
  - November 11-12 - Import/Export 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

## WEBINARS

Upcoming Webinars:

- April 17 - Import Guidelines for Purchasing and Sourcing Departments
- May 15 - Customs Value Issues - Assists/Other Payments

Register for webinars at our [eStore](#) or contact [Tracie Maslak](#). Past [webinars](#) are available on our website.

## RUSSIA

- The Bureau of Industry and Security (BIS) announced on its [website](#) on March 27 that, as of March 1, it placed a hold on the issuance of licenses that would authorize the export or reexport of items to Russia. No other formal announcement has been made. Previously approved licenses are still valid.
- President Obama issued Executive Order 13662 on March 20, blocking the assets of an additional [20 individuals, along with Bank Rossiya](#) of St. Petersburg, Russia. 79 Fed. Reg. [16167](#) (March 24, 2014).
- On April 11, the Office of Foreign Assets Control (OFAC) [added](#) 7 individuals and 1 entity to the Russian and Ukrainian sanctions lists. Each of these individuals are now on the Specially Designated Nationals (SDN) List.

## NOTICES OF ACTION

In the latest decision in a long-running dispute, the U.S. Court of Appeals for the Federal Circuit has ruled that a Customs Notice of Action effectively revoked an earlier classification ruling, requiring Customs to follow notice-and-comment procedures for interpretive rulings and decisions. The decision is a reminder that Customs Notices of Action should not contradict administrative rulings. Contact Sean Murray with questions. [Int'l Custom Products v. U.S.](#), Fed. Cir. [13-1176](#) (April 14, 2014).

## IRANIAN REGULATIONS

OFAC has updated the Iranian Transactions and Sanctions Regulations (ITSR) to permit the export of certain EAR99 replacement parts for medical equipment, increase the allowance for the export of agricultural equipment, and add and clarify some definitions. OFAC has also expanded its list of frequently asked questions ([FAQs](#)). 79 Fed. Reg. [18990](#) (April 7, 2014).

## CONFLICT MINERALS

The first conflict mineral reports are due on May 31, 2014. Separately, the U.S. Court of Appeals for the D.C. Circuit has issued a decision upholding aspects of the SEC conflict mineral regulations, but finding requirements to indicate products are not "DRC conflict free" in SEC reports and company websites to violate the First Amendment. Contact Sean Murray or Chuck Ballard with questions. [Nat'l Assoc. of Mfrs v. SEC](#), D.C. Cir. No. [13-5252](#) (April 14, 2014).

## TTIP

The fourth round of U.S.-EU [negotiations](#) on the Transatlantic Trade and Investment Partnership (TTIP) concluded on March 14. It appears that there are differences in product coverage and treatment under existing proposals. One observer indicated the European Union (EU) proposal would eliminate tariffs on 95% of tariff lines while the U.S. proposal would only cover 69%. Negotiations also continue on treatment of services and public procurement.

## BIS LICENSE SUPPORT

The Bureau of Industry and Security (BIS) has issued a Proposed Rule that would reduce the burden on license applications for some items by removing the requirement to obtain an International Import Certificate or Delivery Verification. A Statement by Ultimate Consignee and Purchaser (a BIS-711 form) would be required instead. BIS would also stop issuing certificates for U.S. imports. Comments are due by June 9. 79 Fed. Reg. [19552](#) (April 9, 2014).

## EARLY PAYMENT DISCOUNT

Clients who pay discounted amounts are reminded that they may be able to declare the discounted value to Customs. In a recent ruling letter, Customs allowed the transaction value to be based on the discounted price because it was agreed prior to importation of the merchandise, the importer was able to support the discount with documentation, and all conditions of the discount were met prior to importation. Contact Tom Lobred with questions. HQ [H065028](#) (Jan. 8, 2014).

## FDA DRAFT GUIDANCE

The Food and Drug Administration (FDA) recently released draft [guidance](#) on the Food Safety Modernization Act (FSMA) prior notice requirements for imported food. Comments are due by May 30. 79 Fed. Reg. [17947](#) (March 31, 2014).

## SELLING AGENTS

Agency relationships often raise Customs issues. In a recent ruling on a Protest Denial, Customs found an agent had too many links with the seller to be considered a buying agent. The agent signed commercial documents on behalf of the seller, used the seller's e-mail address, and spent significant time at the seller's premises. Being a buying agent is a question of fact, and the totality of the evidence must support that agency. HQ [H156115](#) (Jan. 27, 2014).

## SYRIA RE-EXPORTS

[Arkema Rotterdam](#) of the Netherlands was fined \$16,000 for re-exporting ethyl mercaptan from the Netherlands to Syria. Arkema originally had purchased the product from a U.S. supplier, but did not tell the supplier the product would be re-exported to Syria.

## AD DUTY REFUND REFUSED

Customs has ruled that antidumping duties paid on imported shrimp that was found by FDA to be contaminated and therefore refused was not refundable to the importer. Customs allows refunds on prohibited goods, but not on restricted goods. HQ [H240986](#) (Jan. 8, 2014).

## CLEAN AIR ACT VIOLATIONS

The U.S. Environmental Protection Agency (EPA) recently announced that a California-based importer of Chinese motorcycles, engines, and recreational vehicles agreed to pay \$630,000 in civil [penalties](#) to settle Clean Air Act violations for importing and selling vehicles and engines made in China that did not comply with federal emissions limits.

## IMPORTER OF RECORD

Customs has ruled that a relocation service which brings household goods into the U.S. cannot serve as the importer of record due to its lack of sufficient financial interest. HQ [H242069](#) (Feb. 6, 2014).

## 2013 IPR SEIZURES

Customs and U.S. Immigration and Customs Enforcement (ICE) have issued fiscal year (FY) 2013 intellectual property rights (IPR) seizure [statistics](#). 693 arrests were made during the year, which resulted in 411 indictments and 465 prosecutions. The number of seizures increased 7% from 2012, while the manufacturer's suggested retail price (MSRP) of the seized goods increased from \$1.26 billion in FY 2012 to \$1.74 billion in FY 2013.

## FALSE INVOICES

Multiple related apparel importers will pay \$10 million to settle charges for falsifying entry documentation by under-declaring the value of their imported apparel to avoid paying import duties. [U.S. v. Siouni and Zarr Corporation et. al.](#), S.D.N.Y. Case [1:11-CV 04247-CM](#). (April 9, 2014).

## IRAN PENALTIES

OFAC has settled claims against two companies. On March 31, OFAC settled with [GAC Bunker Fuels](#) for \$157,500 after its Brazilian affiliate refused an Iranian tanker in Brazil. On April 2, OFAC settled with [Sea Tel, Inc.](#) for \$85,000 for shipping antennas to its distributor in South Korea with knowledge they would be transferred to Iran.

## MUNITIONS IMPORTS

The Bureau of Alcohol, Tobacco, Firearms and Explosives has issued an Interim Rule effective April 28 to remove certain articles from the U.S. Munitions Import List. Comments are due by June 25. 79 Fed. Reg. [17204](#) (March 27, 2014).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 4/15/14		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	285	267
SUBZONES	714	561
PENDING		
ZONES	5	
SUBZONES	10	
MISCELLANEOUS	49	

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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