

# BRIEFINGS

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## EXPORT REFORM

The next round of export control reforms has been released. They relate to satellites and spacecraft moving from Category XV in the U.S. Munitions List to Commerce Control List Categories 3, 6, and 9. The interim regulations go into effect on June 27, 2014, but most of the classifications do not go into effect until November 10, 2014. Comments are also due by November 10. 79 Fed Reg. [27417](#) (May 13, 2014); 79 Fed Reg. [27180](#) (May 13, 2014).

## FTZ OPERATIONS MANUALS

At the NAFTA Spring Seminar in Seattle, WA on May 5-6, several FTZ Operators indicated that local Customs had requested copies of FTZ Operations Manuals when performing annual compliance reviews. Operators need to keep their FTZ Operations Manuals current and accurate, as required by 19 C.F.R. § 146.21(b)(2). All updates and revisions must be submitted to the Port Director. Contact Linda King with questions or for assistance with updates.

## CONFLICT MINERALS

- The U.S. Court of Appeals for the District of Columbia has rejected an emergency motion to stay the Securities & Exchange Commission's (SEC's) conflict minerals rule that requires reporting by June 2. Nat'l Assoc. of Mfrs. v. U.S., CADC Case No. [12-5252](#) (May 14, 2014).
- The SEC has also issued [guidance](#) on the reporting requirements to reflect the April court decision finding parts of the conflict minerals reporting requirement unconstitutional.

## IN MEMORIAM

Bill Williams, Senior Legal Assistant for over ten years, passed away on May 11. Bill was also a thirty-nine year veteran of the U.S. Customs Service, finishing his career as an Import Specialist. With the firm, Bill focused on classification, antidumping, and entry issues. He will be missed by all.

## 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:

- June 19 - NAFTA/FTA - Qualification and Certificates of Origin
- July 17 - QP/WP - From ACS to ACE
- Register for webinars at our [eStore](#) or contact [Tracie Maslak](#). Past [webinars](#) are available on our website.

## PROTESTS – GSP ELIGIBLE

The Generalized System of Preferences (GSP) expired on July 31, 2013, and subsequent entries will be liquidating. Customs has not provided updated guidance. Importers should preserve their rights to potential refunds by requesting that liquidation be extended or filing protests for GSP-eligible entries. Contact Sean Murray with questions.

## RUSSIA & UKRAINE

- On April 28, the Office of Foreign Assets Control (OFAC) imposed new sanctions on [seven Russian individuals and seventeen entities](#). Each of these individuals and entities have been added to the list of Specially Designated Nationals (SDN) published by OFAC.
- The [Bureau of Industry and Security](#) (BIS) announced on April 28 that it was going to rescind some licenses and not approve additional licenses for high technology items that could contribute to Russia's military capability.
- OFAC has issued new sanctions regulations on Russia and those undermining the Ukrainian sovereignty. 79 Fed. Reg. [26365](#) (May 8, 2014).
- A Ukrainian/Crimean oil and gas company, Chernomorneftegaz has been added to the BIS "Entity List." 79 Fed. Reg. [21394](#) (April 16, 2014).
- President Obama notified Congress on May 7 that he intends to remove Russia from the Generalized System of Preferences because it no longer needs the duty free benefits for developing countries.
- Russia is threatening to take the U.S. sanctions to the World Trade Organization.

## SECURITY SEALS

Effective May 15, 2014, Customs-Trade Partnership Against Terrorism (C-TPAT) Partners are required to use "High Security" class seals on all loaded containers bound for the U.S. Remaining ISO 17712:2010 high security seals may be used up before employing [ISO 17712:2013](#) high security seals.

## AD/CVD SCOPE PROTESTS

Confirming that importers may protest some Customs decisions on imports subject to antidumping and countervailing duties (AD/CVD), the U.S. Court of International Trade (CIT) has ruled that Customs made a protestable decision when it liquidated an entry of Chinese zinc-coated conduit steel that was clearly excluded from the AD/CVD scope. Customs had asserted that the importer's only recourse was a Commerce scope ruling. [LDA Incorporado v. U.S.](#), CIT Slip Op. [14-54](#) (May 13, 2014).

## PETROLEUM DRAWBACK

After a trial, the CIT has denied substitution unused drawback claims for crude petroleum because of failures to prove that the imported and substituted petroleum were commercially interchangeable and the exported petroleum was unused, due in part to value differences and the removal of some petroleum from, and reintroduction of residual into, the trans-Alaskan pipeline. Clients should consider using FTZ status as an alternative to drawback. [BP Oil Supply Company v. U.S.](#), CIT Slip Op. [14-48](#) (Apr. 29, 2014).

## HONEY ANTIDUMPING DUTIES

A former employee of a honey supplier will pay over \$700,000 in [fines and restitution](#) and spend a month in jail for facilitating the sale and transportation of imported Chinese honey that he knew had been transshipped to avoid antidumping duties.

## VALUE DEDUCTIONS

The Canadian International Trade Tribunal (CITT) has ruled that a Canadian importer properly deducted from Customs value the amounts of "margin" and "advertising support" negotiated with the foreign seller prior to Canadian importation, even though the discounts were paid after importation. [Hudson's Bay Co. v. Canada Border Services Agency](#), CITT, No. [AP-2012-067](#) (Mar. 21, 2014).

## NUTRITIONAL SUPPLEMENTS

Customs has requested comments by May 30 on the proposed revocation of rulings on the tariff classification of certain nutritional supplements that are currently classified as medicaments in HTSUS 3004.90.9190 (duty free). The proposed classification is HTSUS 2106.90.9998 (6.4%) as other food preparations. 48 Cust. B & Dec., [113](#) (April 30, 2014).

## SYRIAN SANCTIONS

OFAC has issued new [Syrian sanctions](#) regulations that incorporate its General Licenses and Presidential Executive Orders. OFAC also added [7 individuals, two refineries, and a bank](#) to the SDN list. 79 Fed. Reg. [25413](#) (May 2, 2014).

## FTZ ANNUAL REPORTS

The Department of Commerce has requested comments on continuing information collections for the Annual Report to the Foreign-Trade Zones Board. Comments are due by July 1, 2014. 79 Fed. Reg. [25108](#) (May 2, 2014).

## ITAR ENFORCEMENT

The [Justice Department](#) has released a list of enforcement cases dating back to 2008. The majority were related to violations of the International Traffic in Arms Regulations (ITAR).

## TOP IMPORTERS

Customs has posted its annual [list](#) of the top 5,000 importers for FY 2013 by entered value. The value of company imports is one criteria used by Customs to select companies for Focused Assessments.

## PERU TPA

Customs has issued a ruling that reversed a port decision on the eligibility of chemical imports for preferential treatment under the Peru TPA. It ruled that the batch production records were sufficient proof the goods were wholly produced in Peru. HQ [H241889](#) (March 20, 2014).

## WHISTLEBLOWERS

- A whistleblowing employee that filed a False Claims Act claim will receive \$2 million of the \$10 million settlement paid by the importer to settle charges that it avoided millions of dollars in Customs duties. The scheme included the submission of false, undervalued invoices, and the importer paying additional amounts to the foreign vendors under separate "debit notes." [U.S. v. Siouni and Zarr Corp. et. al.](#), Case [1:11-CV 04247-CM](#) (S.D.N.Y. April 30, 2014).
- OtterBox has paid \$4.3 million to [settle](#) charges it violated Customs laws and the False Claims Act by failing to include dutiable engineering and mold assists in the Customs value declared in its entries. A whistleblowing former employee will receive an \$830,000 share of the settlement amount.

## NAFTA COOs

On remand from the Court of Appeals for the Federal Circuit, the Court of International Trade (CIT) has held that it is reasonable for Customs to waive the presentation of NAFTA Certificates of Origin (COOs) for Reconciliation entries, but not for Section 1520(d) claims. [Ford Motor Company v. U.S.](#), CIT Slip Op. [14-53](#) (May 9, 2014).

## DR-CAFTA VERIFICATIONS

As a reminder of the individual nature of Customs reviews, Customs has issued a ruling on a negative determination in a DR-CAFTA verification, rejecting the importer's argument that an established and uniform practice existed based on the successful results of an earlier verification. HQ [H175556](#) (Feb. 3, 2014).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/14		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	285	267
SUBZONES	715	561
PENDING		
ZONES	5	
SUBZONES	11	
MISCELLANEOUS	46	

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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