

BRIEFINGS

VOLUME 26, NO. 9
September 15, 2014

FTR

- The 180-day [informed compliance](#) period for the new [Foreign Trade Regulations \(FTR\)](#) provisions that went into effect on April 5 ends on October 2. Among the new FTR provisions that will be enforced beginning October 2 are a requirement to identify the type of end user and to provide an FTZ identifier for foreign trade zone shipments.
- Census has issued an Interim Final Rule that revises the FTR and reverses the requirement implemented in April requiring an Automated Export System (AES) filing on all temporary import and export transactions being exported or re-exported. Under the new rule, only licensable transactions require an AES filing. 79 Fed. Reg. [54588](#) (Sept. 12, 2014).

COUNTRY OF ORIGIN

Samsung Electronics America Inc. has paid \$2.3 million to [settle](#) allegations by the Department of Justice that it misrepresented the origin of Chinese products it sold to resellers under government contracts as Korean or Mexican, in violation of the Trade Agreements Act of 1979. The allegations were initiated under the False Claims Act by a former Samsung employee.

TTIP & TPP

Transatlantic Trade and Investment Partnership (TTIP) and Trans-Pacific Partnership (TPP) negotiations continue to move slowly. Additional negotiating rounds have been scheduled, but neither agreement appears likely to be completed soon. Major issues still need to be resolved.

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](#).

UPCOMING WEBINARS

Upcoming Webinars:

- September 18 - Export Party Responsibilities
- October 16 - Scary Stories - Import/Export/FTZ Compliance Mistakes and Penalties
- Register for webinars at our [eStore](#) or contact [Victoria Denney](#). Past [webinars](#) are available on our website.

C-TPAT FOR EXPORTERS

Customs has added a [fact-sheet](#) for exporters on its website that includes an invitation to join the Customs-Trade Partnership Against Terrorism (C-TPAT). The fact sheet discusses the benefits and eligibility requirements for exporters that sign up for C-TPAT. Contact Sean Murray or Chuck Ballard with questions or for information about the firm's C-TPAT program documents.

CUSTOMS AUDITS

Customs is revising its Focused Assessment methodology, effective October 1. This is the time of year when companies typically receive initial notice that they have been selected for audit. Customs is also conducting some "surveys" outside the scope of its audit methodology. The methodology allows larger entry samples. Contact Sean Murray with questions.

RECORD HIGH FTZ ACTIVITY

The [FTZ Board's 75th Annual Report to Congress](#) shows record highs in the value of merchandise received (\$835.8 billion) and exported from FTZs (\$79.5 billion) in 2013. Exports from FTZs have more than tripled since 2009. The proportion of domestic-status merchandise received in FTZs that combine U.S. and foreign inputs rose from 58% to 65% and warehouse and distribution operations shot up to \$264 billion, representing 32% of all FTZ activity. Contact Marshall Miller for underlying details and analysis.

OFAC PENALTY

The Office of Foreign Assets Control (OFAC) has fined [Branch Banking & Trust](#) of Winston-Salem, North Carolina \$19,125 after it processed a check for a Sudanese national. The penalty might have been less because the bank's software caught the potential blocked party, but the compliance person overruled the software and processed the check anyway.

NEW RUSSIAN SANCTIONS

OFAC issued a number of new sanctions on Sept. 12. [Directives 1, 2, and 3](#) reduce the allowed open debt for entities on the [Sectoral Sanctions List \(SSL\)](#) to 30 days. [Directive 4](#) places further prohibitions on providing goods or services in support of Russian deep-water, offshore, or shale oil projects. Additional entities were [added](#) to the SSL and the Special Designated Nationals (SDN) List, and General Licenses [GL 1a](#) and [GL 2](#) were issued. Contact Chuck Ballard for more information.

CIT MEDIATION

Despite the government's objections, the U.S. Court of International Trade (CIT) has ordered a penalty case brought against an importer for allegedly misclassifying imported work gloves to proceed to mediation. The CIT believes the confidential mediation process may result in settlement. U.S. v. Tenacious Holdings, Inc., CIT Slip Op. [14-101](#) (Sept. 2, 2014).

COUNTERFEITS

A former California customs broker has reached an \$8 million settlement with Coach to end a contributory trademark infringement case involving a Customs entry of counterfeit handbags and wallets the broker cleared under a fraudulent Power of Attorney. Coach, Inc. v. Celco Customs Service, C.D. Cal. [11-10787](#) (June 5, 2014).

FRUITS & VEGGIES

The U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) recently [issued](#) a Proposed Rule that would allow APHIS to order emergency import bans and restrictions of specified fruits and vegetables through a Federal Register notice. Comments are due by Nov. 10, 2014. 79 Fed. Reg. [53346](#) (Sept. 9, 2014).

RUSSIA - WTO

The Office of U.S. Trade Representative has scheduled a public meeting for October 10 and is requesting comments to aid in its annual report on Russia's implementation of its World Trade Organization (WTO) obligations. Comments are due by Sept. 26. 79 Fed. Reg. [52100](#) (Sept. 2, 2014).

STEEL MILL CERTIFICATES

Customs Headquarters recently concluded that regulations requiring steel mill test certificates for some imported iron and steel products are within Customs authority. [HQ H209833](#) (July 15, 2014).

EO NOMINE AND USE

Customs Headquarters has issued a ruling that shows how use can be a factor in *eo nomine* classifications. Customs classified flat silicon plastic bands as both other articles of plastic in Heading 3926 and as imitation jewelry of Heading 7117, depending on the design and use of the band. HQ [H236523](#) (July 2, 2014).

EAR UPDATES

The Bureau of Industry and Security (BIS) has published a Final Rule correcting recent changes to the Export Administration Regulations (EAR). Most of the changes relate to clarifications to license exceptions RPL and STA. 79 Fed. Reg. [48660](#) (August 18, 2014).

LACEY ACT DECLARATIONS

The Animal and Plant Health Inspection Service (APHIS) recently launched a new [website](#) giving importers another option for filing Lacey Act Declarations electronically via the Lacey Act Web Governance System (LAWGS).

DEEMED EXPORT GUIDANCE

The BIS recently updated its guidance on applying for a [deemed export license](#). The guidance is designed for obtaining a license for employees.

COUNTERFEIT TABLETS

Customs has determined a shipment of 11,540 electronic tablets with an Amazon, Google, Micro SD or SD trademarks [seized](#) at the Laredo, Texas port of entry were counterfeit. The tablets had a suggested retail price of \$1.1 million.

ILLEGAL TRAFFICKING

Two Chinese citizens that lived in Massachusetts were charged with allegedly importing and reselling [counterfeit](#) cellphone cases. In 2012 and 2013 Customs seized about 10,000 cases worth \$350,000 that were imported by the defendants.

ORIGIN MARKING

A Pennsylvania federal court has dismissed a court action filed against a U.S. importer under the False Claims Act by Customs Fraud Investigations (CFI), a company that conducts independent research related to potential Customs fraud. CFI alleged improper marking of imported iron and steel pipe fittings and failure to pay 10% marking duties based on publicly available shipping manifest data and eBay listings. The court dismissed the complaint because it failed to provide a sufficient factual basis. U.S. ex rel. Customs Fraud Investigations, LLC v. Victaulic Company, No. [13-2983](#) (E.D. Pa. Sept. 4, 2014).

OFAC TO LIMIT SEARCHES

OFAC issued a [notice](#) on August 25 that it would limit high volume searchers on its [Sanction List Search tool](#).

FOREIGN TESTING OPS

Reiterating a long-established position, Customs has issued a ruling concluding that if an importer pays the foreign vendor for foreign testing costs, these payments are part of the customs value. If, however, the payments are made directly to a tester who is unrelated to the foreign vendor, then these payments are not part of customs value. HQ [H256223](#) (Aug. 20, 2014).

GREEN GOODS

A 2nd round of Environmental Goods Agreement negotiations will occur September 22-26 in Geneva with hopes of finalizing the list of goods for duty elimination.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 9/15/14		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	286	268
SUBZONES	719	565
PENDING		
ZONES	5	
SUBZONES	13	
MISCELLANEOUS	36	

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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