

BRIEFINGS

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EXPORT REFORM

• The U.S. Census Bureau has announced it is making changes in advance of the new State and Commerce Departments reforms announced on April 16 that go into effect in October. Among the changes are new export codes to correspond to the new "600" series Export Control Classification Numbers (ECCNs) and recognition of the new "600" series ECCNs when they become effective in October. The Automated Export System (AES) is also being updated to require an AES filing and the correct code when most "600" series products are exported. AES Broadcast #2013029 (April 17, 2013).

• As a result of the export control reform effort and the fact some products are moving from the U.S. Munitions List (USML) to the Commerce Control List (CCL), the Bureau of Alcohol Tobacco Firearms and Explosives (BATFE) issued a Final Rule on April 22 that officially eliminates a cross reference between the U.S. Munitions Import List (USMIL) to the USML. 78 Fed. Reg. [23675](#) (April 22, 2013). Contact Chuck Ballard with questions.

COMMERCE/USTR

President Obama has nominated Ms. Penny Pritzker, a Chicago businesswoman, to be the next Secretary of Commerce. He has also nominated Mr. Michael Froman to be the next United States Trade Representative (USTR). Mr. Froman has most recently been President Obama's deputy national security advisor for international economics.

UPCOMING WEBINARS

- May 30 - Increasing FTZ Savings
 - June 6 - License Determination Using the EAR
- Check out a complete list of upcoming webinars on the Miller & Company [website](#). Register for the webinars at our [eStore](#) or contact [Victoria Denney](#).
- Podcasts of past webinars are available on our website.

RAYTHEON FINED

Raytheon signed a [consent agreement](#) with the Directorate of Defense Trade Controls (DDTC) on April 30. This is the Raytheon's third Consent Agreement since 1999. Raytheon was charged with 125 violations relating to valuation, tracking temporary imports, and foreign partners producing in amounts in excess of agreements. As part of the agreement, Raytheon will pay \$8 million in penalties, \$4 million of which will be suspended provided Raytheon spends the money toward improving its compliance. The DDTC focused on the repetitive nature of the violations over years and the company's failure to address root causes.

EU-U.S. FTA

- The U.S. International Trade Commission (ITC) has requested [comments](#) on the possible impact of an FTA with the European Union. Comments are due by June 18, 2013. USITC Investigation Nos. [TA-131-037](#) and [TA-2104-029](#) (April 18, 2013).
- Turkey has requested parallel talks with the U.S. while the EU-U.S. FTA is being negotiated.

2012 AUDIT STATISTICS

Customs audit statistics from 2012 indicate that 46% of Free Trade Agreement (FTA) reviews have resulted in a finding of non-compliance. The firm has also seen a large number of issues with NAFTA Certificates of Origin in recent months. Clients are encouraged to closely review and monitor their processes for qualifying goods under FTAs and issuing FTA Certificates of Origin. Contact Sean Murray with questions.

NAFTA SECTION 1520(D)

The Court of Appeals for the Federal Circuit (CAFC) has upheld a decision of the lower court that a post-importation NAFTA claim filed under 19 U.S.C. § 1520(d) must be supported by a NAFTA Certificate of Origin (COO) and that 19 C.F.R. § 10.112 does not extend the one-year time period. However, because Customs waives submission of a NAFTA COO within one year under the Reconciliation program, the CAFC remanded the case to the lower court to decide if there is a reasonable explanation for Customs' different interpretations of Section 1520(d). [Ford Motor Company v. U.S.](#), CAFC Slip Op. [12-1186](#) (May 3, 2013).

TPP

The Trans-Pacific Partnership (TPP) countries have agreed to let Japan join their formal discussions. The USTR sent a formal 90-day advance [notification](#) to Congress that Japan will join the talks in July. 78 Fed. Reg. [26682](#) (May 7, 2013).

SURVEILLANCE

- The Obama Administration is wrestling with the control of exports of equipment that can be used by governments to monitor citizen activities. The issue, which was [discussed](#) at a House Foreign Affairs Hearing on April 24, is separating equipment legitimately used in commercial applications from that used by governments to censor, spy, or disrupt the flow of information to citizens.
- Computerlinks FZCO of Dubai has [settled](#) with the Bureau of Industry and Security (BIS) for exporting U.S. goods to Syria in violation of the Export Administration Regulations. The equipment was used by the Syrian government to monitor and control internet traffic. Computerlinks was accused of providing false information to its U.S. supplier on the end use and user. To avoid further sanctions, Computerlinks agreed to pay a \$2.8 million fine.

FTZ

Customs has issued a ruling that concludes blended sugar syrup made from Brazilian cane sugar dissolved in water and mixed with U.S. corn syrup in a U.S. foreign-trade zone (FTZ) does not undergo a "substantial transformation" and its origin is Brazil. HQ [H234949](#) (April 19, 2013).

ACAS PILOT LIST EXTENDED

Customs intends to extend its Air Cargo Advance Screening pilot program, is reopening the application period for the pilot, and is considering changes in its regulations to fully implement the program. 78 Fed. Reg. [23946](#) (April 23, 2013).

SUSPICIOUS ACTIVITY

In [guidance](#) to C-TPAT members, Customs encourages reporting suspicious activities and security breaches prior to Customs discovery, which demonstrates that security systems are working. Companies are reminded that reports must be handled carefully as they trigger agency reviews.

CEE DEVELOPMENTS

- Customs has updated the Centers of Excellence and Expertise (CEE) [Test Guidelines](#) which delineate the responsibilities and procedures for participants. Updates include instructions on entry summary filing with Periodic Monthly Statements; a procedure for cancelling CEE participation; and a reminder that for post-entry activities, brokers/filers should contact the CEE not the port.
- The Customs Pharmaceuticals, Health & Chemicals CEE in New York City was [alerted](#) by the French Fake Medicines Observatory that a shipment suspected of containing unapproved pharmaceutical products was on its way, which resulted in 400 pills of Carisoprodol (Soma) being intercepted. Soma has been banned from import since January 11, 2012.

AES FATAL ERRORS

Census recently sent out a broadcast message regarding two common AES fatal errors. Fatal error 128 occurs when an invalid Port of Export is entered into AES. To resolve it, the exporter should review the proper codes found in Census "[Appendix D.](#)" Fatal error 632 occurs when the incorrect unit of measure is entered. Although the product may be sold as an "each" or other unit of measure, AES requires the HTSUS or Schedule B unit of measure to be entered. AES Broadcast #2013031 (April 19, 2013).

AGREEMENT GUIDELINES

The DDTC has updated its [guidelines](#) on submitting Technical Assistance Agreements and Manufacturing License Agreements.

TOYOTA FINED

[Toyota Motor Credit Corporation](#) was fined \$23,400 by the Office of Foreign Asset Controls (OFAC) for loaning money to and processing loan payments from Claudia Aguirre Sanchez, who was on OFAC's list of Specially Designated Nationals.

RECONCILIATION

Customs has posted a General Notice to allow Reconciliation of post-importation claims to be filed on or after August 12, 2013 for five additional Free Trade Agreements (FTAs): U.S.-Oman FTA, U.S.-Peru Trade Promotion Agreement (TPA), U.S.-Korea FTA, U.S.-Colombia TPA, and the U.S.-Panama TPA. 78 Fed. Reg. [27984](#) (May 13, 2013).

RALPH LAUREN FCPA

U.S. fashion house Ralph Lauren Corporation (RLC) has agreed to pay \$1.6 million to resolve allegations of misconduct under the Foreign Corrupt Practices Act (FCPA) for allegedly bribing government officials in Argentina to obtain improper Customs clearance of merchandise and for illicitly providing expensive gifts to Argentine officials to secure the importation of RLC's products into Argentina. As part of the deal, RLC will pay the [Department of Justice](#) a monetary penalty of \$882,000 and the [Securities and Exchange Commission](#) \$735,000.

APHIS UPDATES

- The Animal and Plant Health Inspection Service (APHIS) has issued a Final Rule authorizing the import of restricted plant material for experimental, therapeutic, or developmental purposes by establishing a "controlled import permit." 78 Fed. Reg. [25565](#) (May 2, 2013).
- APHIS has issued a Proposed Rule which modifies requirements for various imported plants. 24, 2013. 78 Fed. Reg. [24633](#) (April 25, 2013).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 5/15/13		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	283	266
SUBZONES	700	547
PENDING		
ZONES	4	
SUBZONES	9	
MISCELLANEOUS	50	
AVERAGE PROCESSING TIME (MONTHS)		
ZONES	8	
SUBZONES	10	

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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