

# BRIEFINGS

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## FTZ TEMPORARY REMOVAL

Customs has issued a ruling that medical devices may not be removed from FTZs for sterilization under Temporary Removal procedures because sterilization is a manufacturing process under the drawback laws. Contact Marshall Miller with questions. HQ [H233345](#) (June 21, 2013).

## GSP UPDATE

- The Generalized System of Preferences (GSP) expired on July 31, 2013. House and Senate Committees have introduced identical bills to renew GSP through September 30, 2015. HR [2709](#) (July 17, 2013) and S. [1331](#) (July 18, 2013). There is also discussion of including GSP renewal in an Omnibus Trade Bill with Miscellaneous Tariff Bill provisions, Trade Promotion Authority (formerly fast-track), Trade Adjustment Assistance (TAA), and African Growth and Opportunity Act (AGOA) provisions.
- The Obama Administration has announced an [action plan](#) for working with stakeholders and Bangladesh to ensure the country improves worker safety, which will support reinstatement of GSP benefits.

## BIS VOLUNTARY DISCLOSURES

The Bureau of Industry and Security (BIS) has issued a Final Rule that requires exporters who make an initial Voluntary Self-Disclosure (VSD) to perfect their disclosure within 180 days. BIS has the authority to extend the 180 days, but has indicated they do not expect to routinely grant extensions. 78 Fed. Reg. [48601](#) (August 9, 2013).

## MILLER & COMPANY P.C. NAFTZ RECEPTION

Join us for a private reception exclusively for our clients during the 41st NAFTA Annual Conference & Exposition on September 9, 2013. We will provide current information on a wide range of foreign-trade zone, import/export, and trade security topics. Please RSVP to [Jackie Davis](#).

## FALL SEMINARS

- Oct. 8/9 - FTZ 101 & FTZ 201
  - Nov. 12/13 - Import/Export 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

## UPCOMING WEBINAR

- September 5 - Exporting Technology/Deemed Export
- Register for the webinars at our [eStore](#) or contact [Victoria Denney](#). Past [webinars](#) are available on our website.

## CUSTOMS COMMISSIONER

President Obama has nominated Mr. Gil Kerlikowske to be the next Commissioner of Customs. Mr. Kerlikowske is currently the Director of the Office of National Drug Control Policy. He will need to be confirmed by the U.S. Senate.

## BIS END USE CHECKS

David Mills, the BIS Assistant Secretary for Export Enforcement, indicated at the BIS Annual Update conference on July 24 that BIS did more end use checks last year than it has over the past five years. As USML items migrate to the CCL, end use checks will likely become more common.

## EXPORT REFORM

- The BIS and the Directorate of Defense Trade Controls (DDTC) published a Proposed Rule on July 25 to move certain military electronics from the U.S. Munitions List (USML) to the Commerce Control List (CCL). Comments on the Proposed Rule are due September 9. 78 Fed. Reg. [45017](#) (July 25, 2013) and 78 Fed. Reg. [45026](#) (July 25, 2013).
- Officials at the BIS Annual Update conference [indicated](#) that they are working on moving toxicological agents and night vision equipment from the USML to the CCL. A Proposed Rule is anticipated by Fall. Officials also stated they are working toward a single licensing entity.

## CONFLICT MINERALS

A federal district court has upheld the Securities and Exchange Commission's 2012 conflict minerals regulations against several challenges by business groups. The conflict minerals reporting requirement begins May 31, 2014. Contact Sean Murray with questions. [National Association of Manufacturers, et al. v. Securities and Exchange Commission, et al.](#), Civil Action No. [13-cv-635 \(RLW\)](#) (U.D.C. D.C. July 23, 2013).

## ACE STATUS UPDATE

Customs has [issued](#) dates for mandatory use of ACE, including Manifest by May 1, 2015, Cargo Release by November 1, 2015, and full use by October 1, 2015. The Automated Commercial System (ACS) is scheduled to be decommissioned by the end of 2016.

## FDA UPDATE

The FDA has issued a Proposed Rule on foreign supplier verification programs (FSVP) for imported food for humans and animals. The FSVP includes a provision requiring importers to conduct annual food safety audits of foreign supplier facilities. Comments are due November 26. 78 Fed. Reg. [45729](#) (July 29, 2013).

## IRANIAN MEDICAL

The Office of Foreign Assets Control (OFAC) has published changes to the list of medical supplies that have been identified as EAR99 and are eligible for a [general license](#) for export to Iran. OFAC has also published changes to their [frequently asked questions](#), and guidance on exporting [medicines, medical devices, food, and agricultural products](#).

## DCMA ENTRIES

Customs has ended its 100% review requirement for entries claiming duty-free treatment of articles for military departments under HTSUS subheading 9808.00.30. The submission of a duty-free certificate is no longer required unless a "documents required" message is received. However, the certificate must still be obtained from the Defense Contract Management Agency (DCMA) and available upon request. CSMS [#13-000356](#) (July 18, 2013).

## VD & STILL FINED \$8 MILLION

Despite filing Voluntary Disclosures (VDs) and taking corrective actions, Aeroflex Incorporated has been [fined](#) \$8 million by the DDTC. The reasons for the large fine were stated as the nature of the products and the systematic, long-standing nature of the violations. It also appears a concern was that Aeroflex was not advising customers that the products were ITAR-controlled, and these customers were in turn exporting the products without the required DDTC licenses.

## CUSTOMS BUSINESS

In [HQ H167815](#) (June 28, 2013), Customs ruled that the review of previously-filed Customs entry forms by a customs broker's billing verification employees constitutes "Customs business" that requires a customs broker license because a broker has a duty to advise its importer client of any inaccuracies which could lead to entry corrections.

## SPLIT SHIPMENTS & AES

The [Census Bureau](#) has indicated that shipments split by a carrier to move separately will not require a separate Electronic Export Information (EEI) filing in the Automated Export System (AES) unless the shipment does not move within 24 hours if moving via vessel, or 7 days if moving via air, truck or rail. CSMS [#13-000401](#) (August 9, 2013).

## PERSONAL PENALTIES

The Court of Appeals for the Federal Circuit (CAFC) has ruled that corporate officers and shareholders cannot be held directly liable for their corporations' negligent misstatements on Customs entry documentation, barring proof of individual fraud or the corporate veil being pierced. [U.S. v. Trek Leather, Inc.](#), CAFC Slip Op. [11-1527](#) (July 30, 2013).

## ABI AIR IN-BOND

Beginning on August 18, any Immediate Export (I.E.) in-bond air shipment from a Southern border port to Mexico must include the Mexican Pedimento Entry Number or it will be rejected by ACS, and the I.E. movement will not be authorized. CSMS [#13-000406](#) (August 13, 2013).

## STA REVIEWS

Matthew Borman, the BIS Deputy Undersecretary for Export Administration, indicated at a July 31 Atlantic Council event that about 10% of BIS audited companies did not comply with the provisions of the Strategic Trade Authorization (STA) license exception.

## FORGED USDA FORM

[Raquel Molina](#), an employee of a Miami food supply company, was fined \$500 for forging the signature of a U.S. Export/Import veterinary medical officer on a USDA Animal and Plant Health Inspection Service (APHIS) form.

## SUPPLY CHAIN PENALTIES

- A Seattle area company, [Precision Image Corporation](#) (PIC), is facing up to \$1 million in fines, and its owner up to 20 years in prison, for sending International Traffic in Arms Regulations (ITAR) controlled technology to Taiwan without a license. The Navy contracted with PIC to make printed circuit boards (PCBs). PIC's owner, Chih-Kwang-Hwa contracted with a Taiwan company to build the PCBs, allegedly with knowledge the technology required an export license.
- The Department of Justice has [charged](#) Peter Picone, Methuen, Massachusetts, with importing counterfeit semiconductors from China and selling them to defense contractors in the United States.
- GuildMaster, Inc., a Springfield, Missouri company, recently pled [guilty](#) in federal court to importing thousands of lamps from China bearing counterfeit safety certification labels.

## BURMA IMPORTS

President Obama has issued [Executive Order](#) 13651, which extends the ban on imports of rubies and jadeite from Burma/Myanmar. Most other imports from Burma are now [permitted](#). 78 Fed Reg. [48793](#) (August 9, 2013).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/13		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	283	266
SUBZONES	7015	552
PENDING		
ZONES		4
SUBZONES		13
MISCELLANEOUS		54
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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4929 MAIN STREET  
KANSAS CITY, MO 64112  
816.561.4999  
FAX 816.561.5999  
E-MAIL [intllaw@millerco.com](mailto:intllaw@millerco.com)

1875 I STREET N.W., 5TH FLOOR  
WASHINGTON, D.C. 20006

233 BROADWAY, SUITE 2702  
NEW YORK, NEW YORK 10279