



## CBP INFORMED COMPLIANCE

Clients continue to receive ominously-worded "Informed Compliance Letters" from the Customs Regulatory Audit Division. Customs has stated that these letters are not formal notices of audit selection or investigation, but indicate that the recipient may be selected for review. One client received a visit from Customs shortly after receiving a letter. Clients receiving these letters should consider their current level of preparedness for a Customs audit. Contact Sean Murray with questions.

## CUSTOMS/EPA

Customs has issued a Proposed Rule that would amend its regulations to "harmonize" the documents required for different classes of vehicles and engines subject to the Clean Air Act and require EPA emission compliance forms to be filed electronically. The proposed changes raise concerns for FTZ operations and current OEM exemptions. We strongly encourage clients to work with the National Association of Foreign Trade Zones (NAFTZ) and provide comments. Comments are due September 16, 2016. Contact Marshall Miller with questions. 81 Fed. Reg. [54763](#) (Aug. 17, 2016).

## RECONCILIATION IN ACE

Customs has [issued](#) ACE Reconciliation guidance. On October 29 the Customs Reconciliation program [transitions](#) to ACE and blanket flagging will no longer be permitted. We recommend that all clients currently in Reconciliation immediately review their entry flagging process and ensure they are modified as necessary for ACE. Clients may also expedite reconciliations that could be filed before the transition. Contact Sean Murray with question.

## NEW 2016 SEMINAR DATES

The firm is offering two seminars before the end of the year:

- November 1 & 2 - Import/Export 101 & 201
  - December 6 & 7 - FTZ 101 & 201
- Seminars are offered to Miller & Company clients only. For more details contact [Penny Freeman](#).

## AD/CVD ENFORCEMENT

- In its latest [update](#) on Antidumping and Countervailing Duty (AD/CVD) enforcement, Customs notes that an importer is suing a German glycine supplier because Customs determined the glycine was Chinese-origin and subject to a 453.79% AD duty rate. Clients are reminded to include contract provisions for consequential damages if suppliers misrepresent or cannot substantiate origin claims.
- Customs has published an Interim Rule to implement provisions of the Enforce and Protect Act of 2015 (EAPA) concerning Customs investigations of AD/CVD evasion. Comments are due by October 21, 2016. A [timeline](#) has been posted of EAPA investigation deadlines. 81 Fed. Reg. [56477](#) (Aug. 22, 2016); 81 Fed. Reg. [62004](#) (Sept. 8, 2016).
- The Government Accountability Office (GAO) has issued recommendations to reduce Customs duty processing errors and mitigate nonpayment risks based on \$23 billion in uncollected AD/CVD as of mid-May 2015. [GAO-16-547](#) (July 2016).

## NEW TSCA REGS

Customs has issued a Proposed Rule to provide for electronic filing of Toxic Substances Control Act (TSCA) certifications in ACE, eliminate paper-based blanket TSCA certifications, and clarify and add certain definitions. Comments are due by September 28, 2016. 81 Fed. Reg. [59157](#) (Aug. 29, 2016).

## ACE & LIQUIDATION

Customs has [released](#) changes to the liquidation process in Automated Commercial Environment (ACE). Expect an Interim Final Rule with the changes prior to their deployment on October 29, 2016. Customs will start processing liquidations weekly every Friday and posting notices of liquidations electronically to a searchable database on the Customs website.

## ACE PGA DEADLINES

- September 20 is the deadline for all electronic filing of import data in ACE and export data in the Automated Export System (AES) for products regulated by the National Marine Fisheries Service (NMFS). 81 Fed. Reg. [54559](#) (Aug. 16, 2016).
- The pilot for Animal and Plant Health Inspection Service (APHIS) Core ended August 15. Entry filers will be required to file electronic entries in ACE with APHIS data and some or all APHIS forms by November 28. This includes all APHIS non-Lacey Act filings.
- The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) ended its ACE pilot on August 31, but its mandatory ACE filing date has yet to be determined. 81 Fed. Reg. [60022](#) (Aug. 31, 2016).

## SECTION 321 ENTRIES

Customs has issued an Interim Final Rule to implement regulatory changes based on the increase in the value of shipments exempt from duties and taxes from \$200 to \$800 under the Trade Facilitation and Trade Enforcement Act of 2015. The increased scope of the exemption raises concerns about compliance with Partner Government Agency (PGA) import declaration requirements. Customs has requested comments by September 26. The NCBFAA has already [submitted](#) comments. 81 Fed. Reg. [58831](#) (Aug. 26, 2016).

## OFAC RUSSIAN SANCTIONS

On September 1, the Office of Foreign Assets Control (OFAC) [updated](#) its sanctions relating to Russia and occupied portions of the Ukraine. A number of persons were also added to OFAC's Specially Designated Nationals (SDN) List and entities were [added](#) to the Sectoral Sanctions List.

## HEADING 4202 CONTAINERS

In a significant decision that provides duty-savings opportunities, the Court of Appeals for the Federal Circuit (CAFC) has upheld the Court of International Trade's decision that certain phone cases are not classified as containers in Harmonized Tariff Schedule of the United States (HTSUS) subheading 4202.99.9000 (20%), but rather as other plastic articles in subheading 3926.90.9980 (5.3%). [Otter Products, LLC v. U.S.](#), CAFC Slip Op. [2015-1866](#) (Aug. 24, 2016).

## EXECUTIVES SENTENCED

Four executives of defense contractor [Sabre Defense Industries](#) of Nashville, Tennessee have been sentenced to 13 to 18 months in prison for exporting firearm components without the required International Traffic in Arms Regulations (ITAR) license.

## ITC MONITORING TOOL

The U.S. International Trade Commission has [launched](#) a new [Import Monitoring Tool](#) that allows the public to monitor changes in U.S. imports by comparing the volume and value of goods imported for consumption for the last 8 quarters.

## GAO CONFLICT MINERALS

The GAO has released a [report](#) to Congress on Conflict Minerals which indicates that while more firms know the sources of their "conflict minerals" than before, the majority still have difficulty confirming their origins. Contact Sean Murray with questions. [GAO-16-805](#) (Aug. 2016).

## DCS

The Directorate of Defense Trade Controls (DDTC) and the Bureau of Industry and Security (BIS) have published Final Rules harmonizing their Destination Control Statements. Contact Chuck Ballard for guidance on the necessary updates. 81 Fed. Reg. [54721](#) and [54732](#) (Aug. 17, 2016).

## BIS ENTITY LIST

BIS has added 81 entities to the Entity List. Most relate to Russia and many are subsidiaries of Gazprom. For most Entity List entries, a license is required for any product or technology, but for the Gazprom entities a license is only required for sanctioned end uses or if the end use is unknown. 81 Fed. Reg. [61595](#) (Sept. 7, 2016).

## ZTE EXTENSION

BIS has extended the Temporary General License (TGL), allowing most sales to Zhongxing Telecommunications Equipment (ZTE) Corporation and its ZTE Kangxun subsidiary until November 30, 2016. 81 Fed. Reg. [55372](#) (Aug. 19, 2016).

## FDA ACE REJECTS

The Food and Drug Administration (FDA) has issued an [Error Guide](#) that explains the reject messages it sends for missing or bad data. CSMS [#16-000741](#) (Aug. 23, 2016).

## GSP

The U.S. Trade Representative (USTR) has published notice of its annual review of the Generalized System of Preferences (GSP) duty preference program. Petitions to modify the list of eligible duty-free articles and to review the GSP status of any beneficiary developing country are due October 4, and petitions requesting waivers of Competitive Need Limitations are due December 2. 81 Fed. Reg. [58547](#) (Aug. 25, 2016).

## TTIP

European leaders are pessimistic about concluding the Transatlantic Trade and Investment Partnership (TTIP) negotiations. The Austrian Minister of Economy has said talks should be restarted from scratch, while the French Minister of State for Foreign Trade has signaled that France may request a cessation of TTIP discussions at an EU ministers meeting on September 22 in Bratislava.

## TPP

The future of the Trans-Pacific Partnership (TPP) is subject to much debate:

- Senate Majority Leader Mitch McConnell (R-KY) recently said that Congress will not act on TPP this year.
- The Obama Administration has [indicated](#) that it still intends to push for a vote during the lame-duck Congress.
- According to [Japan Times](#), TPP signatories recently met in Japan and agreed the TPP will not be renegotiated.

## OFAC PENALTIES

- The OFAC has [penalized](#) World Class Technology Corporation of Portland, Oregon \$43,200 for shipping orthodontic devices to Iran.
- On September 13, OFAC [announced](#) a settlement with PanAmerican Seed Company (PanAm) for \$4,320,000. PanAm allegedly sold seeds to European and Middle Eastern entities with knowledge the seeds would be resold to Iranian distributors and even continued to sell seeds to Iran after OFAC opened its investigation.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 9/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	291	273
SUBZONES	757	603
PENDING		
ZONES		4
SUBZONES		14
MISCELLANEOUS		44

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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