

BRIEFINGS

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PHARMACEUTICAL APPENDIX

Based on feedback from the United States and European Union, it appears that the fifth round of updates to the HTS Pharmaceutical Appendix will not be concluded in the near term. Companies importing dutiable Active Pharmaceutical Ingredients (APIs) and chemical intermediates for manufacture into finished pharmaceuticals should consider using foreign-trade zones to avoid duties. Contact Sean Murray with questions.

UPDATED ACE FTZ SCHEDULE

Customs has [released](#) a new Automated Commercial Environment (ACE) deployment schedule that includes numerous changes impacting FTZs:

- FTZ Admissions – Not related to mandatory ACE entry filing time-frame; Customs separately working on ACE programming.
- FTZ Automated Entry Types (06) Update – Additional development time required for completion; moved from October 2015 to July 2016.

U.S.-MEXICO PRE-INSPECTION

The U.S. and Mexico recently [launched](#) a pilot cargo pre-inspection program aimed to facilitate trade by inspecting cargo just once in the exporting country by Customs officials from both nations. The program has begun in Laredo, Texas, focusing on auto shipments, and will be expanded to the Mesa de Otay Customs facility in Baja California, Mexico which will focus on agricultural goods, and San Jeronimo, Chihuahua which will focus on computer equipment and electronics.

WEBINARS & SEMINARS

- November 19 - Managing Import/Export Compliance
- December 10 - Customs Audit Management
- The 2016 seminar & webinar [schedules](#) will soon be posted to the Miller & Company website.
- Register for webinars at our [eStore](#) or contact [Tracie Maslak](#). Past [webinars](#) are available on our website.

TPP

- On November 5 President Obama issued the formal Notice of Intention to Enter into the Trans-Pacific Partnership Agreement (TPP). 80 Fed. Reg. [69561](#) (Nov. 5, 2015).
- The text of the TPP has been [released](#). There are multiple side letters between countries that have not yet been released. For example, Japan exchanged at least 18 side letters that will be considered part of the agreement.
- TPP Article 2.20 obligates TPP countries to join the 1996 Information Technology Agreement (ITA), which provides duty-free treatment to a large number of IT products. An exemption appears for Chile and Mexico. There will be many other interesting provisions to discover in the text.
- The U.S. International Trade Administration has [posted](#) reports on the state-by-state impact of TPP.

MADE IN USA LABELING

The Federal Trade Commission has posted a new [Q&A](#) on "Made in USA" labeling requirements. Topics include the "all or virtually all" standard, required proof, how to report violations, and competitor violations.

CONTINUOUS BONDS

Customs has issued a Final Rule on the centralization of the continuous bonds, effective December 14, 2015. Under the new rule, if a bond is deemed insufficient, the principal will only have 15 days to raise the bond amount. Clients are urged to confirm bond sufficiency now. 80 Fed. Reg. [70154](#) (Nov. 13, 2015).

ACE PGA PILOTS

According to Customs Assistant Commissioner Brenda Smith at the Customs East Coast Trade Symposium on November 4, Customs will no longer allow substantial changes to ACE requirements and is freezing PGA business rules, implementation guides, and record layouts for the Food and Drug Administration (FDA), National Highway Traffic and Safety Administration, and Animal Plant Health Inspection Service Lacey Act requirements that will require ACE filing beginning February 28, 2016.

FCC FORM 740

The Federal Communications Commission has published a notice that it is waiving its Form 740 requirements for radio frequency devices imported between July 1, 2016 and December 31, 2016. 80 Fed. Reg. [68471](#) (Nov. 5, 2015).

ALUMINUM EXTRUSIONS

The Department of Commerce has dramatically lowered the "all others" countervailing duty (CVD) rate applicable to Chinese aluminum extrusions from 137.65% to 7.37%, effective November 2, 2015. 80 Fed. Reg. [69640](#) (Nov. 10, 2015).

ACE & EXPORTS

Customs has launched the ACE Exporter Portal Account test. It contains limited export functionality, including access to export reports and the capacity to file Electronic Exporter Information (EEI) through ACE AESDirect. Contact Chuck Ballard with questions. 80 Fed. Reg. [63817](#) (Oct. 21, 2015).

FTZ PUBLIC HEARING

The FTZ Board is holding a rare public hearing on December 3 on an FTZ application involving imported textile products used in the U.S. assembly of personal flotation devices. 80 Fed. Reg. [68504](#) (Nov. 5, 2015).

BIS UPDATE

The Bureau of Industry and Security (BIS) held its [Annual Update](#) on November 2-4. Among the topics discussed was the monitoring conducted by various U.S. government agencies to ensure the end-uses and users in license applications and AES submissions are accurate. Jerry Greenwell, Export Compliance Director, attended. Contact Jerry with questions.

CUSTOMS FRAUD

The U.S. Court of International Trade (CIT) has issued a default judgment for \$2.6 million in 19 U.S.C. § 1592 penalties against an individual who signed and provided a Power of Attorney to a customs broker in exchange for \$250 that was used to import fraudulently undervalued dried peppers that were also adulterated and refused admission by the FDA. The CIT ruled the importer aided and abetted the broker's fraud. *U.S. v. Jeanette Pacheco*, CIT Slip Op. [15-111](#) (Sept. 28, 2015).

IRAN SANCTIONS

President Obama has issued [Contingent Waivers](#) and OFAC has published a list of [frequently asked questions](#) concerning the Joint Comprehensive Plan of Action (JCPOA). 80 Fed. Reg. [66783](#) (Oct. 30, 2015).

BANKS FINED

On October 20, the Office of Foreign Assets Control (OFAC) announced a settlement agreement with [Crédit Agricole Corporate and Investment Bank](#) whereby the bank agreed to pay almost \$330 million for hiding sanctioned entities from U.S. banks and persons when processing payments through the United States. [Deutsche Bank](#) was penalized by the State of New York for \$258 million for similar activities. Six employees were terminated as part of the settlement. A criminal investigation is continuing and could increase the total penalties imposed.

LUMBER AGREEMENT

The Softwood Lumber Agreement between the U.S. and Canada has expired. If the agreement is not renewed, it could lead to AD/CVD assessments on Canadian softwood lumber imports.

FDA – FOREIGN SUPPLIERS

The FDA has [finalized](#) three rules relating to the Food Safety Modernization Act (FSMA), including the Foreign Supplier Verification Program (FSVP) that requires food importers to verify that foreign suppliers are producing food consistent with U.S. safety standards. The Final Rules are scheduled for publication on November 27.

HTS 2022

The U.S. International Trade Commission (USITC) is requesting proposals for changes to the World Customs Organization (WCO) Harmonized Tariff Schedule for 2022. The deadline for submission is February 29, 2016. 80 Fed. Reg. [69248](#) (Nov. 9, 2015).

CHEMICALS

The Bureau of Industry and Security (BIS) has requested comments regarding the effect that the Chemical Weapons Convention (CWC) has on trade involving [Schedule 1 chemicals](#). Comments are due by December 14. 80 Fed. Reg. [70752](#) (Nov. 16, 2015).

C-TPAT MUTUAL AGREEMENTS

Customs is pushing the countries that have signed Mutual Recognition Agreements (MRAs) with the U.S. to provide the agreed upon benefits to members of the Customs-Trade Partnership against Terrorism (C-TPAT). Customs stated they are working with the ten (10) countries that signed MRAs on promises made that have not been implemented.

CBSA - NAFTA COO RULES

The Canada Border Services Agency (CBSA) has issued a memorandum outlining and explaining the legislation, regulations, and general guidelines that apply to the country of origin marking of goods imported from a North American Free Trade Agreement (NAFTA) country (i.e., the U.S. or Mexico). CBSA Memorandum [D11-3-3](#) (Oct. 20, 2015).

FTZ ACE CHANGE

Clients are reminded that while the Privileged Foreign (PF) status filing date has always been required on the CBPF 7501, it is a new [requirement](#) in the CBPF 3461. Contact Linda King or Elaine Bishop with questions.

FALSE HITS

- OFAC has found that BMO Harris Bank [violated](#) Iran sanctions by recognizing screening hits as "false hits" and allowing payments to be processed. The bank failed to update its system after 2010 to recognize the subject party as sanctioned.
- On October 21, OFAC published "[False Hit Guidance](#)" on its website.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/15		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	289	271
SUBZONES	740	586
	PENDING	
ZONES	5	
SUBZONES	18	
MISCELLANEOUS	41	

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

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

233 BROADWAY, SUITE 2702
NEW YORK, NEW YORK 10279