



ACE TRANSITIONS

- January 14, 2017 is the Automated Commercial Environment (ACE) deployment and mandatory transition date for Liquidation, Drawback, Reconciliation, Duty Deferral, and Statements. CSMS # [16-001006](#) (Dec. 9, 2016).
- Companies using Reconciliation may want to complete Reconciliation filings in ACE before the transition, if possible. Contact Sean Murray with questions.
- Customs has provided an “ACS to ACE Application [Transition Plan](#)” that provides the details on each ACE transition.

FTZ - LACEY/LAWGS FILINGS

The Animal and Plant Health Inspection Service (APHIS) recently [issued](#) Frequently Asked Questions on submitting Lacey Act data through its Lacey Act Web Governance System (LAWGS) for foreign-trade zones. We are aware of client problems with submissions. Contact Linda King with questions.

GAO FTZ VISITS

The Government Accountability Office (GAO) is conducting site visits as part of its study of the FTZ program. The study focuses on revenue issues and Customs oversight of FTZs, which could lead to some difficult questions. For more information, contact Marshall Miller.

FCPA ACCOUNTABILITY

- At a recent Foreign Corrupt Practice Act (FCPA) seminar, attorneys for the Securities and Exchange Commission and the Department of Justice indicated that individuals are more likely to be investigated and prosecuted for FCPA violations than previously.
- A new “Individual Accountability” [webpage](#) has been created within the Department of Justice web site that provides significant information on its individual accountability policy.



**SEASONS
GREETINGS!
BEST WISHES FOR A
HAPPY NEW YEAR!**

YEAR-END CHECKLIST

Clients are reminded of the following year-end activities:

- Update tariff classifications for 2017 HTS-level changes
- Issue and obtain blanket FTA Certificates of Origin before Jan. 1
- FTZ Yearly Blanket CBPF 216 Renewal
- Customs FTZ Annual Reconciliation/Systems Review and Certification letter (with any necessary CBPF 214 or Customs Entry)
- FTZ Board Annual Report
- FTZ Scope of Authority/Land/Buildings Review
- New FTZ savings opportunities for 2017

NEW CBPF 216

Customs has posted a new [CBPF 216](#) on its website. It is critical that FTZ Operators use the new CBPF 216 for blanket 2017 submissions this month because filings can be rejected if an expired form is used.

AD/CVD ENFORCEMENT

- Customs has updated its e-Allegations [website](#) to accept whistleblower allegations of antidumping/countervailing duty (AD/CVD) evasion under the Enforce and Protect Act (EAPA). At a recent judicial conference, a CBP lawyer indicated that simply alleging AD/CVD evasion is not enough. An EAPA whistleblower must set forth sufficient and specific facts to “reasonably suggest” evasion.
- Customs declined to proceed with the first EAPA [allegation](#). Customs has indicated that it may issue CBPF 28 Requests for Information to the importer as part of its investigations.

TRUMP TRADE POLICY

- President-elect Trump has pledged to withdraw from the Trans-Pacific Partnership (TPP) on his first day in office.
- Retired Marine General John Kelly is President-elect Trump’s nominee to be the next Secretary of Homeland Security.
- President-elect Trump has named Dow Chemical Corporation CEO Andrew Liveris to head the U.S. Manufacturing Council to advise the Commerce Department.
- President-elect Trump is expected to ramp up trade enforcement.

2017 HTSUS CHANGES

Presidential Proclamation 9549 has been [issued](#) to implement the 2017 World Customs Organization Harmonized System changes, duty reductions under the Information Technology Agreement, and other changes. Clients should ensure their item masters are updated with the new classifications for 2017. 81 [Fed. Reg.](#) 87401 (Dec. 2, 2016).

FDA FINAL RULE

The Food and Drug Administration (FDA) has published its Final Rule for implementation of new ACE filing requirements. The FDA did agree to remove some data elements and the “UNK” (unknown) intended use code will continue to be accepted, but using “UNK” may lead to manual reviews. 81 [Fed. Reg.](#) 85854 (Nov. 29, 2016).

ACE PGA EXPORTS

Customs has published [guidance](#) on submitting Partner Government Agency (PGA) export data using Customs Automated Commercial Environment (ACE) message sets or the Document Imaging System (DIS) for ATF, BIS, DDTC, DEA, FWS, OFAC, TTB, and other agencies. Contact Sean Murray or Chuck Ballard with questions.

PSCs

Effective January 14, 2017, Customs is expanding the universe of entry types eligible for the filing of Post-Summary Corrections (PSCs) to include foreign-trade zone (06), quota, government, and warehouse entries. Significantly, Customs has also announced that PSC filers must deposit any additional duties, fees, or taxes or new or additional AD/CVD duties within 3 business days of PSC filing and that a PSC filer may change an 03 entry to an 01 entry. 81 [Fed. Reg.](#) 89482 (Dec. 12, 2016).

FWS ACE ISSUES

- The Fish and Wildlife Service (FWS) currently has about 400 tariff classifications flagged, but will flag more than 2,000 when electronic filing in ACE is required in 2017.
- Trade representatives suggested to the FWS in a meeting at the East Coast Trade Symposium that it develop a trusted trader program to reduce the expanded FWS reporting requirements and not end the Designated Port Exemption Permit (DPEP) program, which allowed FWS-regulated goods to enter at ports with no FWS staff. William Woody, Chief of the FWS Office of Law Enforcement, promised to address the issues raised.
- On December 13, FWS published a notice that it has rescinded its decision to stop issuing DPEPs.

TMP TO MEXICO

BIS issued a Final Rule, effective January 3, 2017, aligning the rules for license exception TMP for temporary exports to Mexico with the rules for the IMMEX program in Mexico. Under the Final Rule, temporary exports made under TMP to an IMMEX facility may remain in Mexico for up to four years. Other TMP exports, except those associated with personal protection equipment, are still limited to one year. 81 [Fed. Reg.](#) 86571 (Dec. 1, 2016).

GREEN GOODS

The negotiating session in early December that was to conclude the [Environmental Goods Agreement](#) did not result in a final agreement. Some countries are blaming China, which introduced [new products](#).

DDTC ACE GUIDES

The Directorate of Defense Trade Controls (DDTC) and Customs have posted an updated ACE [guide](#) for International Traffic in Arms Regulations (ITAR) shipments.

FCC FORM 740

The Federal Communications Commission (FCC) has [extended](#) its waiver of Form 740 certification requirements for radio frequency devices until it completes its rulemaking process. CSMS #[16-001013](#) (Dec. 13, 2016).

FORCED LABOR

Customs stated at the Customs Operational Advisory Committee (COAC) meeting on November 17 that it intends to self-initiate withhold release orders for imports produced by forced labor.

FDA FOOD FACILITY

The Food and Drug Administration (FDA) has issued a reminder that U.S. agents of foreign food facilities must confirm that they agree to serve as the U.S. agent before the FDA will confirm the food facility's registration (FFR). FFR registrations must be renewed by December 31, 2016. If not, beginning January 1, 2017 food imported from unregistered FFRs will be held at U.S. ports. CSMS #[16-000984](#) (Dec. 1, 2016).

FTZ STATE TAX ISSUES

The U.S. Foreign Trade Zones Board has released [guidance](#) on securing concurrence from state and local entities whose tax revenue could be affected by FTZ tax benefits. Contact Scott Taylor with questions.

ECR CHANGES

The Bureau of Industry and Security (BIS) has issued a Final Rule modifying the classifications of certain military aircraft and engines and clarifying other rules as part of the continuing export control reform (ECR) effort. The DDTC has issued a corresponding change to the U.S. Munitions List. The new rules go into effect on December 31. 81 [Fed. Reg.](#) [83114](#) and [83126](#) (Nov. 21, 2016).

PATENT ROYALTIES

Customs continued its distinction between trademarks and patents in ruling that royalties paid to a U.S. patent holder for a license to use the patent in foreign manufacturing and importing a product is part of the customs value. Contact Tom Lobred with questions. HQ [H233376](#). (Sept. 19, 2016.)

CEO PENALTY CASE

The U.S. Court of International Trade (CIT) declined to dismiss a penalty case against an importer's chief executive officer. The CEO claimed he was not properly notified because the pre-penalty and penalty notices only included his company. [U.S. v. Int'l Trading Services, LLC and Julio Lorza](#), CIT Slip Op. [16-112](#) (December 2, 2016).

TAA COUNTRY OF ORIGIN

In a unique decision, the CIT has interpreted country of origin for government procurement purposes under the Trade Agreements Act of 1979, applying "substantial transformation" standards. Contact Brian Murphy with questions. [Energizer Battery, Inc. v. U.S.](#), CIT Slip Op. [16-116](#) (Dec. 7, 2016).

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 12/15/16		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	292	274
SUBZONES	754	610
PENDING		
ZONES		3
SUBZONES		19
MISCELLANEOUS		42

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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