

# BRIEFINGS

VOLUME 26, NO. 7

July 15, 2014

## BNP PARIBAS

BNP Paribas SA has [agreed](#) to pay nearly \$8.9 billion for criminal violations, pay \$963.6 million for civil violations, and plead guilty to violations of U.S. sanctions. The bank also agreed to a one year ban on conducting certain U.S. dollar transactions and released 13 employees. The Company requested legal advice on certain transactions, but reportedly stretched and ignored portions of the provided advice.

## WTO TRADE FACILITATION

The World Trade Organization (WTO) might miss its July 31 deadline for adopting the [Trade Facilitation Agreement](#) (TFA). African and least-developed countries have suggested that the TFA should not be adopted until the Doha Round is concluded, which would delay and maybe prevent its implementation.

## FCC IMPORTS

Intel Corporation has entered into a Consent Decree with the Federal Communications Commission (FCC) that resolves the FCC's investigation into the company's importation, operation, and marketing of prototype tablet and smartphone devices. The prototypes were imported in excess of import limits and operated before FCC authorization. Clients need to remember the broad scope of FCC import regulation. FCC [DA14-711](#) (July 2, 2014).

## NEW DIVISION CHIEF

The U.S. Census Bureau has announced the appointment of Dale Kelly as the Chief of the Foreign Trade Division (FTD).

## SUMMER WEBINARS

Upcoming Webinars:

- July 17 - QP/WP - From ACS to ACE
- August 21 - Incoterms
- September 18 - Export Party Responsibilities
- Register for webinars at our [eStore](#) or contact [Victoria Denney](#). Past [webinars](#) are available on our website.

## PORT DISRUPTIONS

The union contract for West Coast longshoremen expired on July 1, but talks are continuing. Customs has issued guidance in the event of port disruptions. CSMS [#14-000365](#) (June 24, 2014).

## EXPORT REFORM

The Directorate of Defense Trade Controls (DDTC) and the Bureau of Industry and Security (BIS) both issued Federal Register notices on July 1 announcing the movement of many military electronics from U.S. Munitions List (USML) Category XI to the Commerce Control List (CCL). These new regulations are scheduled to go into effect on December 30. 79 Fed. Reg. [37551](#) (July 1, 2014); 79 Fed. Reg. [37535](#) (July 1, 2014).

## EPA

The Environmental Protection Agency (EPA) has withdrawn a Final Rule on labeling information required for pesticide products and devices intended solely for export, and issued a new Proposed Rule on the issue. Comments are due by August 11. 79 Fed. Reg. [39975](#) and [40040](#) (July 11, 2014).

## C-TPAT FOR EXPORTERS

Customs has not yet announced when the program will officially open, but it has provided a list of [eligibility requirements](#) for exporter participation in the Customs-Trade Partnership Against Terrorism (C-TPAT):

- Active U.S. Exporter;
  - Business office staffed in U.S.;
  - Documentable Employee Identification Number (EIN) or Dun & Bradstreet (DUNS) number;
  - Documented export security program;
  - Designated officer/manager who will act as C-TPAT contact;
  - Commit to C-TPAT Exporter Agreement;
  - Provide Customs with a C-TPAT supply chain security profile;
  - Acceptable compliance level for export reporting for latest 12-month period; and
  - In good standing with other government agencies.
- The firm has developed a documented C-TPAT implementation process that can be used for export. Contact Chuck Ballard with questions.

## GREEN GOODS

The negotiations on the green goods [agreement](#), which will reduce duties on environmental goods between the U.S., European Union and 12 other nations, officially began on July 8.

## ISRAEL MRA AND C-TPAT

Customs and Israel have finalized a [Mutual Recognition Agreement](#) (MRA) covering the U.S. Customs-Trade Partnership Against Terrorism (C-TPAT) program and Israel's Authorized Economic Operator (AEO) program.

## ROUTED EXPORTS

At a panel hosted by Washington Foreign Law Society, Obama administration officials with the Department of Homeland Security (DHS) and State stated that the U.S. Principal Party in Interest (USPPI) could be held criminally liable for export control violations associated with routed export transactions. Contact Sean Murray with questions.

## MADE IN USA

A class action lawsuit was recently filed in the U.S. District Court for the Southern District of California against Macy's and Citizens of Humanity LLC (COH) that alleges the "Made in the U.S.A." label on COH's "Boyfriend" jeans misleads customers because the fabric, thread, rivets, and buttons are made outside the U.S. Clark v. Citizens of Humanity, LLC, Case No. [3:14-CV-01404-JLS-WVG](#) (June 9, 2014).

## DDTC FORMS UPDATED

On June 18, the Directorate of Defense Trade Controls (DDTC) [updated](#) some of its forms following the latest Export Control Reform updates.

## SANCTIONS REGULATIONS

The Office of Foreign Assets Control (OFAC) has issued revised sanctions regulations for:

- Burma. 79 Fed. Reg. [37105](#) (June 30, 2014);
- South Sudan. 79 Fed. Reg. [37190](#) (July 1, 2014); and
- Zimbabwe. 79 Fed. Reg. [39312](#) (July 10, 2014).

## FIRST SALE

Customs has issued a draft Informed Compliance Publication (ICP) on bona fide sales and sales for exportation to the U.S. It includes a potentially problematic section on First Sale, with a list of more than thirty documents that could be relevant for verification purposes. A concern is that auditors could treat the list as mandatory. Contact Tom Lobred with questions.

## COO – MEDICAL DEVICES

- Customs has issued a final determination, HQ H230416, that the processing in Mexico of several medical instruments and accessories to create catheter trays does not substantially transform them into a product of Mexico for U.S. government procurement purposes. 79 Fed. Reg. [38943](#) (July 9, 2014).
- Customs has issued a separate ruling on other medical devices, HQ H248851, finding that assembly operations in China does not substantially transform the Israeli devices. 79 Fed. Reg. [40772](#) (July 14, 2014).

## AGOA

President Obama has issued a [Proclamation](#) removing Swaziland from the list of sub-Saharan African countries eligible for duty-free treatment under the U.S.-African Growth and Opportunity Act (AGOA) effective January 1, 2015, while reinstating Madagascar's AGOA status. 79 Fed. Reg. [37615](#) (July 1, 2014).

## WCO TARIFF CHANGES

The World Customs Organization (WCO) recently [released](#) its latest tariff classification rulings, changes to the Explanatory Notes, and amendments to the WCO Compendium of Classification Opinions from the 53<sup>rd</sup> session of the Harmonized System Committee held in March.

## RELIQUIDATION

In a ruling with disturbing implications for ADD entries, Customs has denied a Protest that challenged a 2011 Customs reliquidation of a 2005 antidumping entry that had been deemed liquidated in 2008. Customs posted a Notice of Deemed Liquidation in 2011 and subsequently reliquidated the entry within 90 days. Customs ruled that the posting of the Notice of Deemed Liquidation triggered its right to reliquidate the entry. Contact Brian Murphy with questions. HQ [215035](#) (April 18, 2014).

## NAFTA SINGLE WINDOW

According to Customs Deputy Commissioner Kevin McAleenan, the U.S., Canada, and Mexico are moving closer to implementing a unified portal to process import and export compliance verifications. After all 3 countries complete their respective single window systems, they will work on coordinating between the systems.

## RELATED PARTY VALUES

Customs has issued a ruling concluding that transaction value was the appropriate basis of appraisal in a series of related party transactions. Customs accepted two transfer pricing studies, IRS-approved, as evidence that the price was not influenced by the relationship. What is unique about this ruling is that the related-party importer seemed satisfied with transaction value being based on the sale between it and its domestic U.S. customer. Contact Tom Lobred with questions. HQ [H176775](#) (March 6, 2014).

## FCC SIGNAL JAMMER FINE

A Chinese electronics vendor, CTS Technology, has been [accused](#) of selling signal jammers to U.S. consumers in violation of U.S. law. It could end up with the largest fine (\$34.9 million) ever imposed by the Federal Communications Commission (FCC) for allegedly marketing 285 models of jammers over more than two years.

## YEMEN JOINS WTO

Yemen [became](#) the 160<sup>th</sup> member of the World Trade Organization (WTO) on June 26, 2014.

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 7/15/14		
	APPROVED	CURRENTLY AUTHORIZED
ZONES	286	268
SUBZONES	715	561
PENDING		
ZONES		4
SUBZONES		15
MISCELLANEOUS		37

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.  
© 2014 Miller & Company P.C.

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