



EIB World Trade Headlines

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Certain Freight Companies Debarred From ITAR Shipments **(February 27, 2012)**

Update to DDTC Web Notice of February 24, 2012: Guidance for Existing, Pending, and Future Authorizations Involving Certain Freight Forwarders Debarred From Government Contracting by U.S. Air Force Action of February 16, 2012

By notice from the Department of the Air Force on February 24, 2012, the debarment of Ceva Logistics LLC a/k/a EGL, Inc. from contracting with an agency of the government is terminated. DDTC hereby revises the guidance provided by its web notice of February 24 to include only those entities currently subject to Air Force action. DDTC encourages applicants to monitor the Excluded Parties List System for any changes to the status of the remaining entities.

Effective immediately, DDTC provides guidance regarding authorizations that include the following freight forwarders debarred from government contracting by action of February 16, 2012:

1. **BAX Global Inc.:** 440 Exchange, Irvine, CA
2. **Kuhne and Nagel International AG:** PO Box 67, Schindellegi, Switzerland
3. **Panalpina Welttransport (Holding) AG:** Postfach, Basel, Switzerland, 4002
4. **Panalpina Inc.:** 1776 On the Green, 67 E Park Pl Fl 3, Morristown, NJ, 07960-7103
5. **Schenker AG:** Alfredstr. 81, Essen, Nordrhein-Westfalen, Deutschland, 45130

NEWSLETTER NOTES

- * Certain Freight Companies Debarred From ITAR Shipments (February 27, 2012)
- * DDTC Posts Updated Guidance for Exports to Afghanistan
- * CBP Issues Proposed Rule to Exempt Certain Defense Transportation System Cargo from Advance Notice
- * Export.Gov Posts Updated List of International Trade Shows
- * Korea and United States Free Trade Agreement Into Force March 15th
- * BIS Renews Temporary Denial Order Against Mahan Airways of Iran, Zarand Aviation, and Related Parties (February 17, 2012)

The five entities listed above are ineligible to contract with an agency of the U.S. Government and are therefore generally ineligible in accordance with § 120.1 of International Traffic in Arms Regulations (ITAR).

Temporary Denial Order

OEE has presented evidence that beginning in or about mid-IOIO, and continuing thereafter, Delfin Group USA LLC ("Delfm") and its president, Markos Baghdasarian ("Baghdasarian"), have conspired with multiple entities and individuals, including entities and individuals located in the United Arab Emirates ("UAE"), to export U.S.-origin items subject to the Regulations from the United States to Iran, via transshipment through the UAE, without obtaining the required authorization from the U.S. Government. De1fin/Baghdasarian have used Bagdel Corporation ("Bagdel"), a freight forwarding company, to facilitate the export and attempted export of the items-polymers and lubricating oils or oil additives, including aviation engine lubricating oils-from the United States to Iran via the UAE. Baghdasarian is the chief executive officer of Bagdel.

Pursuant to Section 766.24 of the Export Administration Regulations ("EAR" or the "Regulations"),I the Bureau of Industry and Security ("BIS"), U.S. Department of Commerce, through it,> Office of Export Enforcement ("OEE"), has requested that I issue an Order temporarily denying, for a period of 180 days, the export privileges under the EAR of:

1. Delfin Group USA LLC

4950 Virginia Avenue, North Charleston,
South Carolina 29405
650 Saint Regis Lane
Alpharetta, Georgia 30022

(Continued above)

2. Marcos Baghdasarian

4950 Virginia Avenue
North Charleston, South Carolina 29405
650 Saint Regis Lane
Alpharetta, Georgia 30022

3. Bagdel Corporation

4950 Virginia Avenue
North Charleston, South Carolina 29405
650 Saint Regis Lane
Alpharetta, Georgia 30022

4. Naren Sachanandani

P.O. Box 9645, Q4-280
Sharjah Airport International Free Zone
Sharjah, United Arab Emirates

5. Do-It FZC

P.O. Box 9645, Q4-280
Sharjah Airport International Free Zone
Sharjah, United Arab Emirates

Pursuant to Section 766.24(b) of the Regulations, BIS may issue a TDO upon a showing that the order is necessary in the public interest to prevent an "imminent violation" of the Regulations. 15 C.P.R. § 766.24(b)(1).

House Foreign Affairs Committee Meets to Discuss Export Reform

The House Foreign Affairs Committee held a hearing Feb. 7 to examine export control reform efforts. The hearing featured conflicting opinions on how far those efforts should go and what Congress can and should do to support them. Committee Chair Ileana Ros-Lehtinen, R-Fla., reiterated her concern with the Obama administration's goal of moving numerous products from the U.S. Munitions List, where they are tightly regulated as defense items, to the Commerce Control List, which provides for less restrictive controls.

She noted that many committee members "want to help make common sense improvements in our export control system that will enhance U.S. national security, protect critical technologies, and make our system easier to navigate for our American businesses" and that "in this regard there are some constructive elements of the current reforms," such as the development of a shared information technology platform across export control agencies. And while a review of the USML also has merit, she said, the large-scale transfer of items from the USML to a proposed Commerce Munitions List "raises a number of questions."

For example, there appear to be no safeguards on allowing CML-controlled items to be "eligible for a broad new license exception to 36 countries deemed as friendly," which could leave those goods "vulnerable to exploitation by grey market brokers, foreign intelligence entities, front companies, and even terrorists."

Ros-Lehtinen characterized an export control reform bill she introduced last year as a more sensible alternative. The Export Administration Renewal Act (H.R. 2122) would re-enact the Export Administration Act and raise the maximum civil penalty amount under that law, increase criminal penalties for willful violations of the Export Administration Regulations, and establish greater congressional oversight over the administration and enforcement of U.S. export controls.

(Continued above)

Items removed from the USML would have to be subjected to controls that are as stringent as their previous USML control levels, unless less restrictive controls are in the economic and national security interests of the U.S.; a policy of denial would be implemented for any license application submitted for items removed from the USML and designated on the Wassenaar Arrangement's "Very Sensitive List" or "Sensitive List" that are intended to be shipped to China; and there would be a policy of denial for any license application submitted for items removed from the USML that are intended to be exported to an ITAR proscribed country or a country subject to a United Nations arms embargo.

Ranking Member Howard Berman, D-Calif., countered that "our out-of-date export controls are more unilateral –and therefore less effective – than they were in the past and are fast becoming a burden on our defense industrial base, our scientific leadership, and our national security." He indicated support for the Obama administration's Export Control Reform Initiative and said "there is much that Congress can do to help this effort." One step would be to update the EAA, which was the goal of a bill Berman introduced last summer. The Technology Security and Antiboycott Act (H.R. 2104) would serve as the underlying statutory authority for U.S. export controls and go beyond the previous emphasis on preserving U.S. military superiority to also reflect the importance of strengthening scientific and technological leadership, high-technology manufacturing and the U.S. defense industrial base.

Berman also called on Congress to restore the president's authority to remove less-sensitive satellites, related components and technology from the USML. Congress required all U.S. satellites and components to be moved from the CCL to the USML in 1998 following an incident in which two U.S. companies provided unlicensed technical assistance to China's space launch program. However, Berman said, "this well-intended restriction is now causing unintended consequences," such as U.S. components being designed out of foreign satellite systems.

(Continued below)

A potential solution is the Safeguarding United States Satellite Leadership and Security Act (H.R. 3288), which would ease current restrictions while prohibiting satellite technology exports to “the countries that pose the biggest risks to our national security” and banning any foreign satellite with a U.S. component from being launched on a Chinese rocket. This bill received support at the hearing from the Aerospace Industries Association of America and the Satellite Industry Association.

Medical Device Firm Settles FCPA Violations with Justice Department and SEC

Recently the Justice Department (JD) announced that it entered into a deferred prosecution agreement with Smith & Nephew Inc., a medical device company, to resolve improper payments the company and certain of its affiliates allegedly made physicians employed by government institutions, in violation of the Foreign Corrupt Practices Act (FCPA). As reported, Smith & Nephew is a wholly-owned subsidiary of Smith & Nephew PLC, an English company traded on the New York Stock Exchange. The company manufactures and sells medical devices worldwide. It acknowledged responsibility for the actions of its affiliates, subsidiaries, employees, and agents who made various improper payments to publicly employed health care providers in Greece from 1998 until 2008 to secure lucrative business.

According to the criminal information, Smith & Nephew, through certain executives, employees, and affiliates, agreed to sell products at full list price to a Greek distributor based in Athens, and then pay the amount of the distributor discount to an off-shore shell company controlled by the distributor. These off-the-books funds were then used by the distributor to pay cash incentives and other things of value to publicly-employed Greek health care providers to induce the purchase of Smith & Nephew products. As reported, in total, from 1998 to 2008, Smith & Nephew, its affiliates, and employees authorized the payment of approximately \$9.4 million to the distributor’s shell companies, some or all of which was passed on to physicians to corruptly induce them to purchase medical devices manufactured by Smith & Nephew.

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The deferred prosecution agreement recognizes Smith & Nephew’s cooperation with the JD’s investigation, thorough self-investigation of the underlying conduct, and the remedial efforts and compliance improvements undertaken by the company. As part of the agreement, Smith & Nephew will pay a \$16.8 million penalty and is required to implement rigorous internal controls, cooperate fully with the department and retain a compliance monitor for 18 months. In a related matter, Smith & Nephew also reached a settlement with the Securities and Exchange Commission (SEC), under which Smith & Nephew agreed to pay \$5.4 million in disgorgement of profits, including pre-judgment interest.

SEC press

release: <http://www.sec.gov/news/press/2012/2012-25.htm>

JD

notice: <http://www.justice.gov/opa/pr/2012/February/12-crm-166.html>

State Department DTAG Issues FR Notice Seeking Trade Subject Matter Experts for Advisory Group

The State Department’s Defense Trade Advisory Group (DTAG) is seeking additional membership applications from subject matter experts from the U.S. defense industry, relevant trade and labor associations, academic, and foundation personnel. Applications must be postmarked by 03/01/12. DTAG originally solicited applications for membership in November 2011. However, DTAG is now seeking additional membership applications in order to have a more diverse membership for the 2012–2014 DTAG. The DTAG advises the Bureau on its support for and regulation of defense trade to help ensure that impediments to legitimate exports are reduced while the foreign policy and national security interests of the U.S. continue to be protected and advanced in accordance with the Arms Export Control Act (AECA), as amended.

(Continued below)

As reported, DTAG members' responsibilities include:

*Service for a consecutive two-year term which may be renewed or terminated at the discretion of the Assistant Secretary of State for Political-Military Affairs (membership shall automatically terminate for members who fail to attend two consecutive DTAG plenary meetings).

*Making recommendations in accordance with the DTAG Charter and the Federal Advisory Committee Act.

*Making policy and technical recommendations within the scope of the U.S. commercial export control regime as mandated in the AECA, the International Traffic in Arms Regulations, and appropriate directives.

Individuals who applied for membership in response to the November 2011 notice do not need to reapply. Applications requirements are detailed in the notice. DTAG notice (FR Pub 02/07/12): <http://www.pmdtdc.state.gov/FR/2012/77FR6169.pdf>

ECHA Issues Notice of REACH Substance Registration Deadline

The European Union issued the following trade-related releases on Feb 3-7, 2012:

*The European Chemicals Agency (ECHA) is reminding all potential registrants of phase-in substances that manufacture or import them into the EU in quantities reaching 100 metric tons or more per year that the REACH (Registration, Evaluation, Authorization, and Restriction of Chemical substances) registration deadline is 05/31/13.

In December 2011, ECHA sent out a survey and it revealed a list of 2,300 substances that will be registered for the first time by the next deadline. ECHA will update the list on a monthly basis and asks registrants to check the list for substances already registered. Notice: http://echa.europa.eu/en/web/quest/view-article/-/journal_content/ab06aa2b-8c2f-4273-a628-e2fdfaf2a6f4



I like to see a man proud of the place in which he lives. I like to see a man live so that his place will be proud of him. ~Abraham Lincoln

DDTC Posts Updated Guidance for Exports to Afghanistan

The Directorate of Defense Trade Controls (DDTC) revised its Guidance for Exports to Afghanistan. According to DDTC, it is the policy of the Department of State to expedite requests for exports directly supporting coalition efforts in Afghanistan. To ensure these priority efforts are supported, the Department will ensure only requests directly related to coalition operations are afforded this expedited review. To be eligible for this expedited handling, the requests must be for defense articles and services for forces or organizations deployed in Afghanistan, or defense articles and services to forces or organizations within 90 days of a scheduled deployment. DDTC's notice provides the criteria that must be met regarding application submission, supporting documentation requirements, instructions for re-export requests under general correspondence, and the export of fully automatic weapons to private entities. (Revised 01/31/12)

DDTC

notice: <http://www.pmdtc.state.gov/licensing/documents/gl-ExportstoAfghanistan.pdf>

CBP Posts Updated Bonded Warehouse Manual

U.S. Customs and Border Protection (CBP) issued a press release to announce the release of a new updated version of the Bonded Warehouse Manual for CBP officers and Bonded Warehouse Proprietors, which will replace the 1990 version. CBP advises that the Bonded Warehouse Manual was developed to serve as a comprehensive guide to understanding bonded warehouse operations. The publication brings together many different references into one document including laws, regulations, other agency issuances, and rulings dealing with bonded warehouses. The majority of the manual deals with bonded warehouse operations and procedures. Information is also included regarding centralized examination stations (CES) and container freight stations (CFS). Updated manual

(2/8/12): http://www.cbp.gov/linkhandler/cgov/trade/cargo_security/cargo_control/bonded_warehouse.ctt/bonded_warehouse.pdf

CBP press release

(02/06/12) http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/02062012_3.xml

ATF Issues Proposed Rule to Extend Most Firearm Import Permits to Two Years

(Comments Due By 5/7/12)

The Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF) is amending its regulations to extend the term of import permits for firearms, ammunition, and defense articles from 1 year to 2 years in order to allow importers sufficient time to complete the importation of the authorized commodity and eliminate the need for the importer to submit a new import application, ATF Form 6, where the importation was not completed within the 1-year period. Written comments are due by 05/07/12. According to ATF, the extension of the term of import permits from 1 year to 2 years will result in a substantial cost and time savings for both the industry and ATF and would be consistent with Executive Order 13563, which directs agencies to make regulatory programs more effective or less burdensome in achieving regulatory objectives.

ATF notes, the term of validity for import permits filed by members of the U.S. military returning to the U.S. from abroad with firearms and for non-immigrant aliens temporarily importing firearms into the U.S. for lawful hunting and sporting purposes would be unaffected by the proposed rule and would remain at one year.

ATF contact – Deborah Szczenski (202) 648-7087

ATF notice (FR Pub

02/06/12) <http://www.gpo.gov/fdsys/pkg/FR-2012-02-06/pdf/2012-2472.pdf>



CBP Issues Notice to C-TPAT Members on New ISO Seal Standard (Effective March 1, 2012)

U.S. Customs and Border Protection (CBP) recently advised C-TPAT partners that the current International Organization for Standardization (ISO) mechanical seal standard (ISO/PAS 17712) will be replaced with a new ISO standard – ISO 17712:2010 effective 3/1/12. CBP advises companies are not expected to discard seals currently in stock. However, after companies have exhausted their current stock of high security seals, the agency recommends that companies purchase seals, which are compliant with the new ISO standard. According to ISO, the new ISO 17712:2010 establishes uniform procedures for the classification, acceptance and withdrawal of acceptance of mechanical freight container seals. The new standard provides a single source of information on mechanical seals, which are acceptable for securing freight containers in international commerce. ISO additionally advised that users and regulatory agencies can apply ISO 17712:2010 to other applications, as they deem appropriate. Therefore, seals that conform to ISO 17712:2010 can be suitable for on bulk railcars or truck trailers used in cross-border and domestic operations. CBP advises that the new seal standard compliance requirements include the following:

- *Testing to determine a seal's classification for physical strength (as a barrier of entry).
- *Process auditing of the manufacturer's security-related business practices.
- *Testing (pass/fail) of a seal's ability to indicate evidence of tampering.
- *A new 18mm minimum width diameter for bolt seals.

In addition, the benefits of the new seal standard include the following:

- *Reduced possibility of cargo theft or tampering.
- *Reduced possibility of unauthorized material being inserted into containers or other instruments of international traffic (IIT).

(Continued above)

*Reducing shipping delays that result when seals are missing or broken.

*When inspecting seals for signs of tampering, tamper-evident seals should allow personnel, with the appropriate training, to detect compromised seals easier.

When Customs-Trade Partnership Against Terrorism (C-TPAT) companies transition to the new ISO 17712:2010 compliant seals, they should request documentation (lab reports) to confirm that the purchased seals comply with the new standard.

ISO

17712:2010 http://www.iso.org/iso/iso_catalogue/catalogue_tc/catalogue_detail.htm?csnumber=41017

USTR Issues Notice of Agreement with EU and Japan settling Zeroing AD Dispute

U.S. Trade Representative (USTR) Kirk announced that the U.S. had signed agreements with the European Union and Japan that will bring to an end longstanding dispute over anti-dumping (AD) "zeroing."

Zeroing refers to the practice of counting only sales at less than fair value to calculate the weighted-average AD margin, excluding all non-dumped sales transactions from the margin. Under the agreements with the EU and Japan, the U.S. will complete the process of ending the zeroing practices found in these disputes to be inconsistent with WTO rules. In return, the EU and Japan will drop their claims for trade retaliation. The U.S.-Japan and U.S.-EU World Trade Organization trade arbitrations will remain suspended and will be terminated – without the issuance of awards – after the U.S. completes its implementation of the agreements.

USTR notice: <http://www.ustr.gov/about-us/press-office/press-releases/2012/united-states-trade-representative-ron-kirk-announces-solu>

State Department Posts Report on the Need for Research on Safety of Nanomaterials

The State Department reported that according to a recent report by the National Research Council (NRC), the potential effect of nanomaterials on the environment and human health and safety is not adequately understood. The report predicts that products containing nanomaterials will become a \$3 trillion market in a few years. The NRC suggests steps to guide future nanomaterials research, which include identifying and quantifying the nanomaterials already in use on a significant scale and the populations in contact with them and understanding processes that affect potential hazards of nanomaterials and exposure to them. Most nanomaterials reach the consumer through personal care and cosmetic products, but use of these materials in medical therapies, processed food and electronics is expanding. Twenty-five U.S. agencies are engaged in nanotechnology in some way and 15 have specific budgets for research and development in the field. Some of the areas NRC report: http://www.nap.edu/catalog.php?record_id=13347

State Dept.

notice: <http://translations.state.gov/st/english/article/2012/02/20120201132917enelrahc0.5501825.html#axzz1lcELeGxw>



CBP Issues Proposed Rule to Exempt Certain Defense Transportation System Cargo from Advance Notice

U.S. Customs and Border Protection (CBP) issued a proposed rule to extend the existing entry exemption for vessels and aircraft owned or chartered by the Defense Department (DoD) to include DoD-owned or DoD controlled and managed vessels and aircraft that have been approved for carriage in the Defense Transportation System (DTS). This proposed exemption would also exempt such DTS vessels and aircraft from the requirement to present advance electronic cargo information. According to CBP, this proposed rule would improve the flow of cargo that supports DoD missions. According to CBP, vessels and aircraft arriving in the United States from a foreign place are generally required to report their arrival to CBP and make entry. Under current regulations, certain vessels and aircraft owned or chartered by DoD are exempt from entry requirements and, in some cases, reporting requirements upon their arrival in the United States from a foreign place. The exemptions generally apply when the vessel or aircraft is transporting cargo that is solely the property of DoD.

CBP notes, that although the cargo that is transported in the DTS is under the strict control of DoD, much of this cargo is not owned by DoD. Vessels and aircraft often carry, for example, defense contractor owned cargo used to support DoD missions, personal property (household goods) of military members, humanitarian cargo, or security assistance cargo. These conveyances traveling in the DTS are currently subject to entry requirements and thus also subject to advanced electronic presentation of cargo information. The proposed rule would allow such cargo to be exempt.

Written comments are due by 04/09/12
CBP contact: Michel Chausse (202) 344-3656
CBP notice (FR Pub
02/09/12): <http://www.gpo.gov/fdsys/pkg/FR-2012-02-09/pdf/2012-2925.pdf>

CBP Issues Proposed Rule to Revise Procedures for Publishing Seized Property Forfeiture Notices on Government Website

U.S. Customs and Border Protection (CBP) issued a proposed rule to revise its procedures for publishing notice of seized property and intent to forfeit and sell (or otherwise dispose of), to allow for publication on an official Government forfeiture Web site. CBP anticipates that this change would reduce administrative costs and improve the effectiveness of CBP's notice procedures, as Internet publication would reach a broader range of the public and provide access to more parties who may have an interest in the seized property.

Written comments on this proposed rule are due by 4/9/12. CBP reports that they have authority to seize property violating certain laws enforced or administered by CBP or U.S. Immigration and Customs Enforcement (ICE), and may seize:

1. a conveyance, merchandise, or baggage, the value of which does not exceed \$500,000;
2. a prohibited importation;
3. a transporting conveyance if used to import, export, transport or store a controlled substance or chemical, and
4. certain monetary instruments. (Review 19 CFR 162.45 for additional information.)

Before such seized property may be administratively forfeited and disposed of in a manner specified by applicable law, CBP must first publish notice of the potential forfeiture publicly, give notice to each party that appears to have an interest in the seized property, and follow certain notification procedures in doing so. The proposed rule would revise the manner by which CBP provides notice of intent to forfeit for seized property appraised at more than \$5,000 and seized property appraised at \$5,000 or less, as follows:

- If valued over \$5000. If the appraised value of any property in one seizure from one person exceeds \$5,000 in value, CBP would utilize the Department of Justice (DoJ) forfeiture website (www.forfeiture.gov) to publish notice for at least 30 consecutive days. In CBP's sole discretion, and as circumstances warrant, additional publication for at least three successive weeks in a print medium may occur.

(Continued above)

- \$5000 or less. For seized property appraised at \$5,000 or less, CBP is proposing that notice would also be published for 30 days on the same DOJ website; however, posting at the customhouse nearest the place of seizure for three consecutive weeks would continue. All know parties-in-interest would be notified of the pending location and date of publication.

CBP Contact: Dennis McKenzie (202) 344-1808

New Government forfeiture Web site: www.forfeiture.gov CBP notice (FR Pub 02/08/12) <http://www.gpo.gov/fdsys/pkg/FR-2012-02-08/pdf/2012-2842.pdf>

CPSC Issues Draft Final Rule on Manufacturers of Durable Infant/Toddler Products Registration Requirements

The Consumer Product Safety Commission (CPSC) posted a draft version of a final rule that will amend a 2009 rule requiring manufacturers of durable infant or toddler products to establish a consumer registration program. The rule also required such manufacturers to provide each product with a postage-paid consumer registration form; and keep records of consumers who register products; and permanently place the manufacturer's name and contact information, model name and number, and the date of manufacture on each product. CPSC's final rule will clarify that although such manufacturers must comply with the registration requirements, they are not required to have a third-party testing laboratory test their products compliance with the registration requirements. CPSC notice: <http://www.cpsc.gov/library/foia/foia12/brief/consregfinal.pdf>



CPSC Posts Comments by Commissioner on Considering Costs/Benefits of CPSIA Rules

Commissioner Nord of the Consumer Product Safety Commission (CPSC) commented on the Regulatory Accountability Act, which was passed in the House on 12/02/11 and would require agencies to take the costs and benefits for new regulations more seriously before finalizing them. Commissioner Nord advised this is something that the CPSC has not done with rules issued under the Consumer Product Safety Improvement Act (CPSIA) because the Act specifically gave the agency the opportunity to opt out of doing cost-benefit analyses. Nord reported it is unfortunate that the CPSC did not think about minimizing regulatory cost, as the agency busily churned out regulations over the past several years, and that maybe this will now change.

Commissioner Nord

comments: <http://nancynord.net/2012/02/01/why-cost-benefit-analysis-makes-sense/>

CBP Issues FR Notice Extending Comment Period on ISF and Cargo Information Collection

U.S. Customs and Border Protection (CBP) has allowed an additional 30 days, until 03/08/12, to comment on eight existing carrier cargo information collections, including the Importer Security Filing (ISF). CBP is proposing to extend the expiration date of these information collections with no changes to the information collected on the forms or regulations.

The cargo information collections are:

1. Importer Security Filing (ISF);
2. Manifest Confidentiality;
3. Inward Cargo Declaration (CBP Form 1302);
4. Cargo Declaration Outward with Commercial Forms (CBP Form 1302A);
5. Air Cargo Manifest (CBP Form 7509); and
6. Car, Vehicle, Etc. (CBP Form 7533)

CBP is asking for comments from the general public and other Federal agencies on

- whether the proposed collection of information is necessary for the proper performance of the functions of the agency/component, including whether the information will have practical utility;

(Continued above)

FDA Issues Update on Orange Juice Imports and Carbendazim

Recently, the Food and Drug Administration (FDA) issued a weekly update to the trade on its sampling of imported and domestic orange juice products that may be contaminated with the fungicide carbendazim. This update is in the form of an addendum to its 01/09/12 letter to the Juice Products Association.

Highlights of the actions the FDA has taken for imported OJ products include:

- FDA is testing samples of orange juice shipments from all countries and manufacturers that offer such shipments for import into the U.S., as well as imported and finished product at domestic manufacturers.
- FDA continues to disallow entry of any sampled shipment into the U.S. until its testing and analysis has confirmed that the orange juice product complies with U.S. law.
- To date, FDA has collected samples from 86 shipments of orange juice or orange juice concentrate. Of these, 46 shipments tested negative for carbendazim, a pesticide that is not legal for use on oranges in the U.S., and 33 of them have already been released for entry into the U.S. Of the 46 shipments, 21 were from Mexico, 14 from Canada, two each from Costa Rica, Belize, Honduras, and Trinidad & Tobago, and one each from Brazil, Lebanon and Turkey.
- The FDA found 20 samples that tested positive, meaning that each sample contained 10 parts per billion (ppb) or more of carbendazim. Each sample represents one shipment. The FDA has detained and/or refused the 20 shipments. Of the 20 samples, nine were from shipments from Canada and 11 were from Brazil. An additional 20 samples are still pending.
- the information from the testing has been used to add associated manufacturers to Import Alert 99-08.

(Continued below)

In addition, highlights of the actions the FDA has taken for domestic samples of OJ products include:

- FDA collected a total of 14 samples in January from major orange juice manufacturers with facilities in Florida that had orange juice or concentrate from Brazil.
- The majority of the 14 samples collected were taken from orange juice concentrate, sampled from large holding tanks that are used to produce hundreds of thousands of retail size containers over multiple production days and with multiple lot codes. Of the 14 samples, five had no measurable level of carbendazim (below 10 parts per billion); the remaining 9 results ranged from 13 ppb – 36 ppb.
- EPA has determined that any level of carbendazim in orange juice below 80 ppb does not pose a health risk. Based on these results, FDA has determined that no action is needed to remove product from the market and that the orange juice consumed by the public does not pose safety concerns due to the low levels of carbendazim residues found in FDA testing.
- At this time, the FDA does not believe there is a need to continue testing for carbendazim in orange juice products already in the United States; however, it does plan to conduct follow-up testing.
FDA's 02/02/12 addendum to its industry letter also recaps its prior weekly updates.
FDA notice:

<http://www.fda.gov/Food/FoodSafety/Product-SpecificInformation/FruitsVegetablesJuices/ucm287783.htm>

NCBFAA Article on House Transportation Bill

As reported, the House Transportation and Infrastructure Committee approved a highway bill this week, after a lengthy and contentious mark-up. The committee rejected an amendment offered by Rep. Jerry Nadler (D-NY) to add the Clean Ports Act to the highway bill. Rep. Nadler insisted that the amendment was necessary to ensure that the 6,000 new clean trucks at the Port of Los Angeles could be maintained. Rep. Laura Richardson (D-CA) also spoke in favor of the amendment. Rep. Gary Miller (R-CA) spoke effectively in opposition to the bill, saying it has nothing to do with the environment, but is meant to overturn a recent court ruling and will assist the Teamsters in their effort to unionize independent owner operators. The committee voted the amendment down. Included in the final bill approved by the committee were two other provisions of interest to National Customs Brokers and Forwarders Association of America (NCBFAA):

1. Harbor Maintenance Fee Trust Fund - NCBFAA is a strong supporter of legislation introduced by Rep. Charles Boustany (R-LA), the Realize America's Maritime Potential Act (the RAMP Act). Boustany's bill would force the government to spend the money it has collected from the harbor maintenance fee (HMF) on badly needed harbor maintenance projects.

Intended Purpose for Fee

There was an effort to include the RAMP Act in the House highway bill. Instead, the committee decided to include a watered down "Sense of Congress" provision that expresses the sense of Congress that the HMF Trust Fund is not being used for its intended purpose and that Congress should fully expend the amounts in the Trust Fund "to operate and maintain the Nation's navigation system." While this is a positive step, bringing attention to the growing HMF Trust Fund surplus while port dredging projects are neglected, it does not force appropriators to use the fee collections for its intended purpose.

(Continued below)

2. Motor Carrier Prevention Act - The committee did include a bill to require transportation brokers to register with the Federal Motor Carrier and Highway Administration (FMCHA) and satisfy financial security requirements. After NCBFAA pointed out that the bill was drafted too broadly, the committee included an exception for licensed customs brokers, ocean freight forwarders, non-vessel operating common carriers (NVOCCs) and Indirect Air Carriers (IACs) when arranging for inland transportation as part of an international through movement.

This exception would assure that there would not be duplicate regulation of these entities. Technical fine-tuning of the language is required, however, before the provision fully accomplishes its purpose.

The highway bill is expected to reach the House floor for a vote by mid-February, though it faces significant obstacles to passage. www.ncbfaa.org (2/6/12)

Medical Device Firm Settles FCPA Violations with Justice and SEC

Recently the Justice Department (JD) announced that it entered into a deferred prosecution agreement with Smith & Nephew Inc., a medical device company, to resolve improper payments the company and certain of its affiliates allegedly made physicians employed by government institutions, in violation of the Foreign Corrupt Practices Act (FCPA). As reported, Smith & Nephew is a wholly-owned subsidiary of Smith & Nephew PLC, an English company traded on the New York Stock Exchange. The company manufactures and sells medical devices worldwide. It acknowledged responsibility for the actions of its affiliates, subsidiaries, employees, and agents who made various improper payments to publicly employed health care providers in Greece from 1998 until 2008 to secure lucrative business. According to the criminal information, Smith & Nephew, through certain executives, employees, and affiliates, agreed to sell products at full list price to a Greek distributor based in Athens, and then pay the amount of the distributor discount to an off-shore shell company controlled by the distributor.

(Continued above)

These off-the-books funds were then used by the distributor to pay cash incentives and other things of value to publicly-employed Greek health care providers to induce the purchase of Smith & Nephew products. As reported, in total, from 1998 to 2008, Smith & Nephew, its affiliates, and employees authorized the payment of approximately \$9.4 million to the distributor's shell companies, some or all of which was passed on to physicians to corruptly induce them to purchase medical devices manufactured by Smith & Nephew. The deferred prosecution agreement recognizes Smith & Nephew's cooperation with the JD's investigation, thorough self-investigation of the underlying conduct, and the remedial efforts and compliance improvements undertaken by the company.

As part of the agreement, Smith & Nephew will pay a \$16.8 million penalty and is required to implement rigorous internal controls, cooperate fully with the department and retain a compliance monitor for 18 months. In a related matter, Smith & Nephew also reached a settlement with the Securities and Exchange Commission (SEC), under which Smith & Nephew agreed to pay \$5.4 million in disgorgement of profits, including pre-judgment interest.

SEC press

release: <http://www.sec.gov/news/press/2012/2012-25.htm>

JD

notice: <http://www.justice.gov/opa/pr/2012/February/12-crm-166.html>



Export.Gov Posts Updated List of International Trade Shows

Export.gov has announced a series of international trade shows that are scheduled for February 2012 through April 2013. The following international trade shows are scheduled for:

- **Mar 2-4, 2012** - Medical Fair India 2012 - Mumbai, India
- **Mar 2-4, 2012** - Medical Fair India 2012 - Seattle, WA, U.S.
- **Mar 5-8, 2012** - Defense & Security 2012 - Bangkok, Thailand
- **Mar 6-10, 2012** - CeBIT 2012 - Hannover, Germany
- **Mar 6-8, 2012** - Expo Manufactura 2012 - Monterrey, Mexico
- **Mar 7-10, 2012** - Dental South China - Guangzhou, China
- **Mar 13-15, 2012** - Oceanology International 2012 - London, UK
- **Mar 14-16, 2012** - Globe 2012 - Vancouver, Canada
- **Mar 16-18, 2012** - China Golf Show/PGA Merchandise Show - China 2012 - Beijing, China
- **Mar 16-19, 2012** - Paris Book Fair U.S. Pavilion - Paris, France
- **Mar 19-22, 2012** - FILMART 2012 - Hong Kong
- **Mar 19-21, 2012** - ISNR 2012 - Abu Dhabi, UAE
- **Mar 20-22, 2012** - Ecobuild 2012 - London, UK
- **Mar 24-27, 2012** - Hair Brasil 2012 - Sao Paulo, Brazil
- **Mar 26-29, 2012** - JEC Composites Show Paris 2012 - Paris, France
- **Mar 27-29, 2012** - ABACE 2012 - Shanghai, China

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- **Mar 27-Apr 1, 2012** - FIDAE 2012 - Santiago, Chile
- **Mar 27-30, 2012** - MCE 2012 - Milan, Italy
- **Mar 28-31, 2012** - Made in America 2012 - Beirut, Lebanon
- **Mar 29-Apr 1, 2012** - DefExpo 2012 - New Delhi, India
- **Apr 4-7, 2012** - Marrakech Airshow 2012 - Casablanca, Morocco
- **Apr 9-13, 2011** - Expomin 2012 - Santiago, Chile
- **Apr 11-13, 2012** - China Refrigeration 2012 - Beijing, China
- **Apr 11-13, 2012** - InfoComm China 2012 - Beijing, China
- **Apr 16-18, 2012** - London Book Fair U.S. Pavilion - London, UK
- **Apr 18-21, 2012** - China Plas 2012 - Shanghai, China
- **Apr 18-20, 2012** - Secutech 2012 - Taipei, Taiwan
- **Apr 19-21, 2012** - ExpoFranquicia Franchising Trade Fair 2012 - Madrid, Spain
- **Apr 20-22, 2012** - IDEM Singapore - International Dental Exhibition and Meeting - Singapore
- **Apr 23-27, 2012** - Hannover Messe 2012 - Hannover, Germany
- **Apr 24-26, 2012** - Exposeguridad 2012 - Mexico City, Mexico
- **Apr 25-27, 2012** - Aquatech India 2012 - New Delhi, India
- **Apr 25-26, 2012** - Counter Terror Expo 2012 - London, UK

CBP Issues Final Rule Making Global Entry for Air Travelers Permanent

U.S. Customs and Border Protection (CBP) issued a final rule, effective 03/07/12, which adopts with some changes, its November 2009 proposed rule on the establishment of an international trusted air traveler program called Global Entry.

According to a DHS press release, the final rule sets forth the regulations that replace the current Global Entry pilot with a permanent Global Entry program, provides CBP with the ability to more readily expand the program to additional U.S. international airports, and changes the age eligibility criteria to allow more families to participate in the program. Current participants in the Global Entry pilot will be automatically enrolled in the Global Entry program for five years from the date of their initial enrollment in the pilot.

CBP advised that the Global Entry program is a voluntary international trusted air traveler program consisting of an integrated passenger processing system that expedites the movement of low-risk air travelers into the U.S. by providing an alternate inspection process for preapproved, pre-screened travelers. In order to participate, a person must meet the eligibility requirements, apply in advance, undergo pre-screening by CBP, and be accepted into the program. The Global Entry program allows participants expedited entry into the U.S. at selected airports. Participants are processed through the use of CBP-approved technology that will include the use of biometrics to validate identity and to perform enforcement queries. CBP has been operating the Global Entry pilot since June 2008. CBP notes that there were several minor changes made to the proposed rule. The only significant change is that minors under the age limit of 14 are now permitted to apply to the Global Entry program.

CBP advised current participants in the Global Entry pilot, including those citizens of the Netherlands and Mexican nationals who participate through joint arrangements with those countries, will be automatically enrolled in the Global Entry program for five years from the date of their initial enrollment in the pilot.

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Participation in Global Entry will remain voluntary and subject to the enrollee continuing to satisfy the program's entry requirements. The existing Global Entry pilot will continue to operate until 03/07/12, the final rule's effective date. CBP anticipates that the Global Entry program eventually will be expanded to operate at most major international airport locations within the U.S. The program, however, initially will be limited to the twenty airports that have participated in the current Global Entry pilot. CBP will announce expansions to new airports in a Federal Register notice and on the Web site www.globalentry.gov

According to CBP, members in good standing of NEXUS and SENTRI are permitted to use Global Entry kiosks as part of their NEXUS or SENTRI membership.

DHS press

release: http://www.cbp.gov/xp/cgov/newsroom/news_releases/national/02062012.xml

CBP FR

Notice: <http://www.gpo.gov/fdsys/pkg/FR-2012-02-06/pdf/2012-2470.pdf>

Commerce Posts Information on United States-Mexico 21st Century Action Plan

Recently Assistant Secretary of Commerce for Market Access and Compliance Michael Camuñez discussed efforts to increase trade between the U.S. and Mexico, including some of the progress made to date on implementing the two country's May 2010 Joint Declaration on 21st Century Border Management. Camuñez advised that this declaration has three areas of focus that are overseen by a bi-national Executive Steering Committee (ESC) and three working groups:

1. Border Infrastructure
2. Secure Flows of Goods and People
3. Corridor Security

In December 2010, the ESC developed an action plan for the border region, which seeks to enhance economic competitiveness by supporting infrastructure projects that increase capacity; expand trusted traveler and

(Continued below)

shipper programs; and explore opportunities for pre-clearance, pre-inspection, and pre-screening processes for commercial goods and travelers.

The action plan includes:

1. the establishment of pilot projects in locations such as Laredo and Nogales for cargo pre-inspection and pre-clearance in both countries;
2. expanding trusted traveler and shipper programs, including Mexico's establishment of a trusted shipper program that aligns with Customs-Trade Partnership Against Terrorism (C-TPAT);
3. establishing specific milestones to be reached over the next twelve months on various border crossing projects; and
4. improving cooperation between Mexican and U.S. law enforcement agencies.

According to Camuñez, the positive results to date include:

- Completion of the San Luis II commercial crossing in San Luis, AZ and the Donna-Rio Bravo Bridge in Donna, TX in late 2010;
- Completion of the construction for seven new northbound commercial lanes at the Laredo World Trade Bridge and the groundbreaking for the new West Rails Bypass project in Brownsville, Texas in 2011;
- The beginning of construction in July 2011 on the new Tornillo-Guadalupe international port of entry in El Paso County; which is slated for completion by summer of 2013. This new six lane border crossing facility will be one of the largest in the nation and capable of serving vehicular, pedestrian and commercial traffic. The ESC is also currently conducting wait time pilots at seven ports of entry.

According to Camuñez, the end goal is to install the appropriate technology to measure wait times and provide real time information for customs officials, shippers, and travelers in order to inform operations and staffing decisions, as well as the redirection of traffic to other neighboring POEs that are less congested.

Secretary of Commerce press

release: <http://trade.gov/press/speeches/2012/camun ez-012612.asp>

Korea and United States Free Trade Agreement Into Force March 15th

Bilateral Pact, Expected to Support Tens of Thousands of U.S. Jobs, to Take Effect March 15

Washington, D.C. – United States Trade Representative Ron Kirk announced today that the U.S.-Korea trade agreement would enter into force – that is, take effect – on March 15, 2012. This announcement follows the completion over the President's Day weekend of work by the United States and Korea to review each other's laws and regulations related to the implementation of the agreement. The United States has exchanged diplomatic notes with Korea in which each side confirmed that they had completed their applicable legal requirements and procedures for the agreement's entry into force.

"In a few short weeks, the promise of the U.S.-Korea trade agreement – including tens of thousands of export-supported jobs with better wages – will start to come home for American businesses and working families," said Ambassador Kirk. "President Obama insisted that we get this agreement right by forging a better deal that led to strong bipartisan support in both houses of Congress. Entry into force of this agreement will open up Korea's \$1 trillion economy for America's workers, businesses, farmers, and ranchers while also strengthening our economic partnership with a key Asia-Pacific ally."

On March 15, almost 80 percent of U.S. exports of industrial products to Korea will become duty-free, including aerospace equipment, agricultural equipment, auto parts, building products, chemicals, consumer goods, electrical equipment, environmental goods, all footwear and travel goods, paper products, scientific equipment and shipping and transportation equipment.

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Also on March 15, almost two-thirds of U.S. exports of agricultural products to Korea will become duty-free, including wheat, corn, soybeans for crushing, whey for feed use, hides and skins, cotton, cherries, pistachios, almonds, orange juice, grape juice, and wine.

The agreement also includes a number of significant commitments related to non-tariff measures that will also come into force on March 15, including obligations related to motor vehicle safety and environmental standards, enhanced regulatory transparency, standard-setting, technology neutrality, and customs administration. Strengthened protections for intellectual property rights benefiting American creators and innovators will also come into force on that day. Finally, commitments opening up Korea's \$580 billion services market will also be in effect beginning March 15.

These commitments are backed by the agreement's strong enforcement provisions, which will enable the United States to hold Korea to its promises under the pact.

BACKGROUND

The U.S. - Korea trade agreement is an integral part of the President's efforts to increase opportunities for U.S. businesses, farmers, ranchers, and workers through improved access for their products and services in foreign markets, and supports the President's National Export Initiative goal of doubling of U.S. exports in 5 years. The agreement will promote the further integration of the U.S. and Korean economies and enhance the competitiveness of U.S. businesses in the world's 12th largest economy.

In December 2010, President Obama announced the successful resolution of outstanding issues with the U.S.-Korea trade agreement, setting the stage for the ratification of an agreement estimated to support 70,000 American jobs from increased goods exports alone, with additional jobs potential from the further opening of Korea's large services market to American firms, and other measures.

The U.S.-Korea trade agreement's implementing bill, approved by Congress in October 2011, authorizes the President to exchange notes with Korea providing for the entry into force at such time as the President determines that Korea has taken measures necessary to comply with provisions of the agreement that are to take effect on the date of the entry into force.

BIS Renews Temporary Denial Order Against Mahan Airways of Iran, Zarand Aviation, and Related Parties (February 17, 2012)

IT IS THEREFORE ORDERED:

Mahan Airways Mahan Tower No. 21,
Azadegan St. M.A. Jenah Exp. Way Tehran,
Iran

Zarand Aviation 42 Avenue Montaigne 75008
Paris, France

GIE Zarand Aviation 42 Avenue
Montaigne 75008 Paris, France

Zarand Aviation 112 Avenue Kleber 75116
Paris, France

GIE Zarand Aviation 112 Avenue Kleber 75116
Paris, France

Gatewick LLC G#22 Dubai Airport Free
Zone P.O. Box 393754 Dubai, United Arab
Emirates

Gatewick Freight & Cargo Services G#22
Dubai Airport Free Zone P.O. Box
393754 Dubai, United Arab Emirates

Gatewick Aviation Services G#22 Dubai
Airport Free Zone P.O. Box 393754 Dubai,
United Arab Emirates

Gatewick LLC P.O. Box 52404 Dubai, United
Arab Emirates

Gatewick Freight & Cargo Services P.O. Box
52404 Dubai, United Arab Emirates

Gatewick Aviation Services P.O. Box
52404 Dubai, United Arab Emirates

Gatewick LLC Mohamed Abdulla Alqaz
Building Al Maktoum Street Al Rigga Dubai,
United Arab Emirates

Gatewick Freight & Cargo Services Mohamed
Abdulla Alqaz Building Al Maktoum Street Al
Rigga Dubai, United Arab Emirates

(Continued below)

Gatewick Aviation Services Mohamed Abdulla
Alqaz Building Al Maktoum Street Al Rigga Dubai,
United Arab Emirates

Pejman Mahmood Kosarayanifard P.O. Box
52404 Dubai, United Arab Emirates

Kosarian Fard P.O. Box 52404 Dubai, United Arab
Emirates

Mahmoud Amini G#22 Dubai Airport Free
Zone P.O. Box 393754 Dubai, United Arab
Emirates

Mahmoud Amini P.O. Box 52404 Dubai, United
Arab Emirates

Mahmoud Amini Mohamed Abdulla Alqaz
Building Al Maktoum Street Al Rigga Dubai, United
Arab Emirates

Kerman Aviation 42 Avenue Montaigne
75008 Paris, France

GIE Kerman Aviation 42 Avenue Montaigne
75008 Paris, France

Sirjanco Trading P.O. Box 8709 Dubai, United
Arab Emirates

Ali Eslamian 4th Floor 33 Cavendish
Square London, WIGOPW United Kingdom

Ali Eslamian 2 Bentinck Close Prince Albert Road
St. Johns Wood London NW87RY United Kingdom