

CBP issues overview of 2009 C-TPAT Accomplishments

U.S. Customs and Border Protection (CBP) posted an overview of the accomplishments of the Customs-Trade Partnership Against Terrorism (C-TPAT) during 2009. According to CBP, highlights of C-TPAT accomplishments include strong validation numbers, continued member growth and increased quality assurance. C-TPAT is a voluntary government-business initiative to build cooperative relationships that strengthen and improve overall international supply chains and U.S. border security. Through C-TPAT, CBP asks businesses to ensure the integrity of their security practices and communicate and verify the security guidelines of their business partners within the supply chain.

Other Headlines in World Trade

BIS Posts FY 2009 Voluntary Self Disclosure Cases with Reduced Penalties

The Bureau of Industry and Security (BIS) posted to its website a table of voluntary self disclosure (VSD) cases that ended in the imposition of reduced civil penalties via settlement agreements in fiscal year 2009. BIS encourages the submission of VSDs by parties who believe they may have violated the Export Administration Regulations (EAR). Most VSDs are resolved by means other than the issuance of a civil penalty. Should BIS determine that the issuance of a civil penalty is appropriate for the resolution of a VSD, BIS affords the submission of a VSD "great weight" in assessing and mitigating the penalty. In appropriate cases, fines and other administrative penalties may be significantly reduced. BIS has posted the VSD cases for FY 2009, for which civil penalties were imposed via settlement agreements.

BIS Issues Final Rule on License Exception for International Space Station

The Bureau of Industry and Security (BIS) issued a final rule which revises License Exception GOV under the Export Administration Regulations (EAR) to provide a new authorization for exports and reexports of certain commodities when they are intended for use on the International Space Station (ISS).

Effective 2/9/10, BIS' final rule adds a new paragraph (d) to License Exception GOV in 15 CFR 740.11, which establishes specific terms and conditions with which exports or reexports must comply in order to take advantage of the new authorization.

Notes:

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****Report predicts 25% growth for US Ports***

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Report Predicts 25% Growth for US Ports

According to the Global Port Tracker, import cargo at the top North American container ports will grow 25 percent in the first half of 2010 compared to the same period last year. The monthly publication by Ben Hackett Associates and the National Retail Federation (NRF) disputes the theory of some economists that the current upturn in economic activity will be followed by another dip. "This forecast assumes that we are not in a double-dip recession and that a recovery is underway," Hackett reported. The Global Port Tracker reported that in December containerized imports at the largest ports in North America increased 2.6 percent compared to December 2008. This was the first time in 28 months that container volume increased compared to the same month the previous year. Even more robust growth is projected in the coming months. When January's numbers are confirmed, they are estimated to show a 17 percent increase over January 2009. February is projected to show a 30 percent increase over the same month last year. In fact, retailers and other importers the past several weeks reported that demand for vessel space in Asia was so strong that some of their shipments missed the intended voyages and were "rolled" to subsequent voyages.

Justice Posts Fact Sheet on Major Export and Embargo-Related Criminal Prosecutions Since 2007

The Justice Department (DOJ) recently issued a fact sheet containing a "snapshot" of over 100 of its major export and embargo-related criminal prosecutions since January 2007. DOJ notes that this list of cases is not exhaustive and only represents select cases. These cases resulted from investigations by the U.S. Immigration and Customs Enforcement (ICE), the Federal Bureau of Investigation (FBI), the Bureau of Industry and Security (BIS), the Defense Criminal Investigative Service (DCIS), and other law enforcement agencies. The following are DOJ's listed U.S. export enforcement prosecutions from 2007 to the present.

- \$100 million penalty for night vision exports.
- Trade secrets from Motorola to China.
- Computer software to Cuba.
- Highly enriched uranium to foreign government.
- Sensitive technology to end-user of concern in India.
- Dual-use electronic components to China.
- Vacuum pumps to Iran.

Justice Settles Export Case with BAE for \$400 Million

BAE Systems PLC has issued a press release announcing its settlement of false statement allegations with the Justice Department in connection with the sale of a radar system to Tanzania. BAE has also reached settlement on bribery allegations with the United Kingdom's Serious Fraud Office in connection with this case. Under the agreement with the Justice Department, the BAE will plead guilty to one charge of conspiring to make false statements to the U.S. Government in connection with the sale of radar equipment for air traffic control in Tanzania in 1999. BAE will pay a fine of \$400 million and make additional commitments concerning its ongoing compliance. Under the agreement with the UK's Serious Fraud Office, BAE will plead guilty to one charge of breach of duty to keep accounting records in relation to payments made to a former marketing adviser in Tanzania. BAE will pay an agreed penalty of £30 million comprising a fine to be determined by the UK courts with the balance paid as a charitable payment for the benefit of Tanzania.

Commerce's FY 2011 Budget contains funding for National Export Initiative

The Commerce Department recently released its fiscal year 2011 budget request, which includes a 20% funding increase for the International Trade Administration (ITA) and a 13% funding increase for the Bureau of Industry and Security (BIS). Highlights of the FY 2011 ITA and BIS budget requests include:

ITA is requesting a FY 2011 increase of \$78.5 million to support an agency-wide, comprehensive, multi-year export expansion strategy known as the National Export Initiative (NEI). Through the NEI, the ITA would:

- Expand the overseas presence
- Increase trade compliance attaches
- identify market opportunities
- provide U.S. government-led trade missions and reverse trade missions
- Increase capacity of Trade Information Center to handle exporter inquiries.
- Strengthen partnerships with large supply-chain companies to increase the focus of U.S. firms on exporting and to make information and exporting tools more readily available to second and third tier suppliers.
- Implement an export promotion plan targeted at top services sectors

In addition, ITA is requesting a decrease of \$5.3 million to eliminate grants provided as a yearly subsidy to a small number of firms in the worsted wool manufacturing industry. ITA is also requesting an increase of \$5.0 million to provide direct funding and enhance the Commercial Law Development Program (CLDP). This longstanding program provides technical assistance to developing countries, helps create transparent legal systems and fair regulations that enable those countries to comply with international and bilateral trade obligations, and promotes the rule of law. BIS is requesting a \$10.4 million funding increase for an initiative to enhance its Office of Export Enforcement (OEE). BIS' OEE has several significant ongoing investigations, operations, and outreach efforts which highlight the current need for more investigators and program enhancements to pursue these national security imperatives. As part of its FY 2011 budget request, BIS outlined the measures it uses to track its performance. The performance measures (i.e., goals) for 2011 are posted. In addition, BIS seeks to create a new Intelligence Exploitation Unit (IEU) to support increased coordination and liaison with the intelligence community in support of counter proliferation, counterterrorism and other national security programs. The Intelligence Analysis Division (IAD) develops law enforcement lead packages for BIS Special Agents in domestic field offices and supports investigations into exports violations, conducts risk assessments in support of Verified End-User program and Entity List determinations, and provides analytical and research support to other BIS offices. BIS is also seeking the expansion of BIS Special Agent resources in the field. In FY 2011, BIS would place a Special Agent in Charge (SAC) office in Oregon and two Resident Agent in Charge (RAC) offices in Ohio and Arizona.

***House Members Call for Action on Chinese Currency,
Warn of WTO Case, Tariffs***

A bipartisan group of at least two dozen members of the House of Representatives is expected to soon send to Treasury Secretary Tim Geithner and Commerce Secretary Gary Locke a letter calling for a series of actions to address the alleged undervaluation of China's currency. The House letter follows a similar but more limited appeal from a group of 15 senators.

The language of the House letter indicates that the valuation of the Chinese yuan, which had faded somewhat as an issue of concern among lawmakers over the past year or so, is re-emerging. "It is imperative that we address this paramount trade issue with all available resources," the letter declared. "The impact of China's currency manipulation on the U.S. economy cannot be overstated. ... U.S. exports to [China] cannot compete with the low-priced Chinese equivalents, and domestic American producers are similarly disadvantaged in the face of subsidized Chinese imports."

Given this situation, the representatives asked Treasury and Commerce to take the following steps.

- DOC should apply the U.S. countervailing duty law to address China's exchange rate misalignment, which meets all three parts of the test to identify the presence of a subsidy that is countervailable under World Trade Organization rules: it involves a financial contribution from the government, it confers a benefit and it is specific to an industry or a group of industries.
- Treasury should label China as a currency manipulator in its next semiannual report on foreign exchange rate practices and then enter into negotiations with China regarding its foreign exchange regime. "These combined actions will signal the government's willingness to take decisive action against China's currency manipulation," the letter asserted, "including the potential filing of a formal complaint with the World Trade Organization."
- The above actions should be taken "in concert with intense diplomatic efforts" with China, the International Monetary Fund and other countries. "Through a combined strategy of legal action and international pressure," the lawmakers argued, "it is possible China will revisit its undervaluation" of the yuan.
- If these efforts are not successful, the Obama administration should consider "all the tools at its disposal, including the application of a tariff on Chinese imports."