

News In Brief

The USITC has the 2016 HTSUS Available Online

While the paper version of the 2016 Harmonized Tariff Schedules of the United States (HTSUS) has not been published yet. The U.S. International Trade Commission (USITC) has a full copy available on line on its website at: <https://hts.usitc.gov/current>

Damaged Parts of a Finished Machine Not Eligible for Drawback Claims

U.S. Customs and Border Protection (CBP) recently issued a binding ruling (H259469) concerning a broken piece of a screen printing machine. At the time of entry the entire machine was entered without breakouts for its parts. CBP will allow drawback claims on merchandise that was defective at the time of importation.

CBP denied the claim for drawback because the detail information on the part was not included in the entry itself. Though the importer provided additional information through an entry of the repaired machine, the entry would have to be reappraised to breakout the broken parts. CBP has taken the position that it will refer to the original documents with the entry and is not required to reappraise the import entry for a drawback claim. A copy of the binding ruling can be found at:

<http://rulings.cbp.gov/index.asp?ru=h259469&qu=H259469&vw=detail>

The following articles were written by Daniel Meylor

FMC is Reviewing PierPass and NY/NJ Port Initiatives

The Federal Maritime Commission (FMC) is continuing its review of PierPass Operations in the Ports of Los Angeles and Long Beach (LA/LB). Commission staff recently visited LA/LB to meet directly with PierPass officials, terminal operators, beneficial cargo owners (BCO's), motor carriers, ILWU representatives and Port officials. PierPass is part of FMC's mandate to monitor agreements for fairness competition.

FMC Chairman has since spoken out about his concerns regarding PierPass. The traffic mitigation fees from PierPass was intended to supplement the cost of maintaining gates at off peak hours. There are complaints that all the terminals are not operating all the regularly scheduled off hour gates and that service suffers later into the night.

There is no published basis for the rates of the fees that PierPass charges. PierPass has consistently said that all the fees are distributed amongst the terminals for the night gates and that the fees do not cover expenses. When PierPass increased it fees, there was not back-up as to why the increase was needed. Chairman Cordero has called for PierPass to open its books for a third-party neutral audit. The Chairman expects a fast response about his concerns from PierPass.

The Ports of New York and New Jersey (NY/NJ) are working on new infrastructure and supply initiatives to increase efficiencies at the two Ports. Representatives from NY/NJ visited the FMC recently to explain its Terminal Information Portal System (TIPS). TIPS is an online system to provide transparency at the terminals. NY/NJ also announced the development of a pilot, an appointment system at the Bayonne terminal this year. The FMC expressed support for the development by the Ports.

Customs Reauthorization Bill

There have been challenges to whether the proposed permanent ban on Internet access taxes should have been included in the Customs Reauthorization bill. The disagreements have stalled the "Trade Facilitation and Trade Enforcement Act of 2015" in the Senate and seems to have delayed a quick action on the bill to the Senate floor for a vote.

There is also challenge of language that was inserted in the conference report after being omitted from the original bill versions passed by the Senate and the House. This makes the legislation subject to a point of order. The House voted for passage of the bill on December 11.

The Senate has not voted on the version out of conference. Because the language was inserted after the conference it could be subject to a point of order on the Senate floor and to another House vote. It would take a 60 member vote to allow a waiver on the point of order and Senate allies of the language think it will pass.

The language that was added at the end of conference deliberation caught many in the Trade by surprise since it was left out of the Customs reauthorization package. If the Senate does vote for the waiver, the final legislation would have to be ratified by both houses of Congress. It should not be a big enough issue to derail the bill, but delays on the vote after January could cause the bill to lose some of its early momentum.

President Obama Removes Burundi from AGOA

Burundi was designated a beneficiary sub-Saharan African country back in 2005. This made Burundi eligible for participation in the African Growth and Opportunity Act agreements (AGOA). On December 21, 2015 President Obama issued a Presidential Proclamation that terminated Burundi's eligibility for AGOA. This proclamation also includes technical amendments to other country agreements, more details can be found at:

<https://www.whitehouse.gov/the-press-office/2015/12/21/presidential-proclamation-african-growth-and-opportunity-act>

NMFS Proposes Consolidation of Seafood Trade Permits

The National Marine Fisheries Service (NMFS) issues permits for the import, export, and re-export of goods covered by the Antarctic Marine Living Resources (AMLR) and the Highly Migratory Species International Trade Permit Program (HMS ITP). Last week, the NMFS issued a Federal Register Notice (FRN) to combine all permits under a new single International Fisheries Trade Permit that allows for electronic applications using both data elements and scanned images. The same FRN also includes proposals to set new permit requirements for seafood products regulated under the Tuna Tracking and Verification Program (TTVP).

Affected seafood products under the (HMS ITP) include certain commodities of tuna, swordfish, billfish, and shark fins. The AMLR covers certain fishery products caught in the waters surrounding the Antarctica. TTVP covers frozen and processed tuna products, along with certain other fishery products.

The NMFS is proposing the single permit, to be applied for electronically, as a step to prepare for the electronic filing of Customs Entries for these fish products in ACE. Comments on the proposal are due by February 29, 2016. The FRN announcement can be found at:

<https://www.gpo.gov/fdsys/pkg/FR-2015-12-29/pdf/2015-32743.pdf>

ParkerVision Seeks Ban on Imports of Apple, Samsung and LG Smartphones

ParkerVision has filed a request for an exclusion order on the importation of certain smartphones and tablets that include the Apple iPhone and the Samsung Galaxy. In this Section 337 complaint to the International Trade Commission (ITC), ParkerVision claims that Apple, Samsung, and LG products use devices that include RF-enabling integrated circuits that are made by Qualcomm. ParkerVision claims that the Qualcomm integrated circuits copy ParkerVision's patented designs and asks the ITC to issue an exclusion order banning importation and sale of products with the infringing RF chips. After an institution investigation, information will be issued by the ITC in Federal Register Notices.

WCO Issues a TPP Overview

The World Customs Organization (WCO) has published an overview of the provisions in the Trans-Pacific Partnership (TPP). This overview is part of a study on the preferential rules of origin of the TPP. The document addresses claims for preferential treatment, certification of origin, and verification of qualifying origin. TPP also allows for value added to qualify under Regional Value Content (RVC). The TPP is different in that it has four RVC calculation methods: 1. Focused Value Method 2. Build down Method 3. Build up Method and 4. Net Cost Method. The methods are given a short summary, but the full detail can be found in the Product Specific Rules in Annex 3-D of the published agreement.

The overview contains an explanation of the rules of origin under the de minimis rule for most goods, which is much higher than most Free Trade Agreements. The overview also has a section on the specific provisions on textile products.

The overview can be found on the WCO website at:

<http://www.wcoomd.org/en/media/newsroom/2015/december/trans-pacific-partnership.aspx>

The full TPP agreement can be found on the Office of the USTR website at:

<https://ustr.gov/trade-agreements/free-trade-agreements/trans-pacific-partnership/tpa-full-text>



By **Todd Boice**, *President*