



EIB World Trade Headlines

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New I-129 Requires Employers Obtain ITAR or EAR License for Tech Data Access

Within the I-129 is now a section that requires that the employer obtain a License DSP-5 when the technology is ITAR controlled or Commerce License when the technology is commercially (EAR) controlled

The U.S. Government requires each company or other entity to certify that it has reviewed the EAR and ITAR and determined whether it will require a U.S. Government export license to release controlled technology or technical data to the beneficiary. If an export license is required, then the company or other entity must further certify that it will not release or otherwise provide access to controlled technology or technical data to the beneficiary until it has received from the U.S. Government the required authorization to do so.

The petitioner must indicate whether or not a license is required on **Page 5, Part 6** of Form I-129.

Newsletter Notes:

- *New I-129
- *FreightWatch International
- *EU Beef Hormone Dispute
- *Global Supply Chain Initiatives
- *Fine on Maxwell Tech
- * Trade/Exports Competitiveness
- *Border and Cargo Security
- *IATA, ICAO, OAG Online
- * HTS Numbers Not Allowed
- * Columbia FTA – Sent to Congress
- * US Trade Polity w/Caribbean – Reoriented
- *World Economic Forum Posts Guidelines
- *Trans-Pacific Container Carriers – Tight Capacity
- *WCO Web Tool – Combat Counterfeiting and Piracy

FreightWatch International Posts Report on U.S. Cargo Theft in 2010

FreightWatch International has issued its annual report on U.S. cargo theft, which found a 4.1% increase in such theft in 2010. Of the 899 recorded incidents, which are the highest on record, 724 (81%) were full truckload or container thefts and 31 were warehouse burglaries (3.4%). Violence was involved in only 1.3% of the incidents. As reported, food and drinks surpassed electronics in 2010 as the most popular target of cargo thieves, accounting for 21% of all theft incidents. The goods most commonly stolen were rice, sugar, tea, coffee, meats, and canned/bottled drinks. This was followed by theft in the electronics sector, which made up 19%. In this sector, 42 cases involved television theft, 33 computer/laptop hardware thefts, and 15 cell phone theft incidents. The remaining affected sectors were: clothing/shoes (11%), building/industrial (10%), home/garden (9%), miscellaneous (8%), consumer care products (6%), auto/parts (6%), pharmaceuticals (5%), alcohol (4%), and tobacco (1%). Pharmaceuticals again measured as the highest per incident value, averaging \$3.78 million, with tobacco second at \$1.26 million and electronics third at \$512,000. Of the 899 theft incidents recorded, 497 had reported theft locations. Of those, 316 occurred in unsecured parking areas, which include truck stops (149), public access parking (36), roadsides (25) and unsecured terminal/lots (106). There were also 124 recorded theft incidents from secured parking locations, such as facility yards and secured drop lots, 23 incidents of fictitious pickup, and 5 incidents of driver theft. According to the report, the highest number of incidents occurred in California, New Jersey, Florida and Texas.

64% of cargo was stolen over the weekend and most often discovered missing when drivers returned on Sunday or Monday to continue their route. FreightWatch report: http://www.freightwatchintl.com/?q=webfm_send%2F34

CRS Posts Report to Congress on EU Beef Hormone Dispute History

The Congressional Research Service (CRS) issued a report providing the history of the U.S. - European Union Beef Hormone Dispute (R40449). According to CRS, the U.S. and the European Union (EU) have engaged in a long-standing and acrimonious trade dispute over the EU's decision to ban hormone-treated meat. Despite an ongoing series of dispute settlement proceedings and decisions by the World Trade Organization (WTO), there was continued disagreement between the U.S. and the EU on a range of legal and procedural issues, as well as the scientific evidence and consensus concerning the safety of hormone-treated beef. To date, the EU continues to ban imports of hormone-treated meat and restricts most meat exports to the European Union to a limited quantity of beef imports that are certified as produced without the use of hormones. In May 2009, following a series of negotiations, the U.S. and the EU agreed to a settlement that could resolve this long-standing trade dispute. The terms of this agreement will be phased in over the next few years.

CRS report:

http://assets.opencrs.com/rpts/R40449_20101206.pdf

DHS Posts Secretary's Speech on Global Supply Chain Initiatives for 2011

Department of Homeland Security (DHS) Secretary Napolitano recently gave a speech on the state of U.S. homeland security, in which she discussed DHS initiatives on aviation, global supply chain, and border security for 2011. Highlights of Napolitano's comments include:

- DHS has an initiative with the International Civil Aviation Organization (ICAO), the WCO, and other international partners, to identify and protect the most critical elements of the supply chain from attack or disruption, including key transportation hubs, to bolster the resiliency of the global supply chain from terrorist attack or natural disaster so it can recover quickly and with minimal disruption. DHS will also work with the private sector and international partners to expand and integrate "trusted traveler" and "trusted shipper" programs that facilitate legitimate travel and trade while enhancing security.

(Continued below)

- Napolitano reported that DHS would also expand the Transportation Worker Identification Credential, or TWIC, program to ensure that only authorized maritime workers can access secure areas of regulated vessels.

- DHS will lead an international effort to strengthen the security of the global supply chain through its initiative, Project Global Shield, which DHS launched with the World Customs Organization (WCO) and 60 other countries, to prevent the theft or diversion of precursor chemicals that can be used by terrorists to make improvised explosive devices (IEDs). DHS will launch the Chemical Facility Anti-Terrorism Standards Personnel Surety Program, requiring high-risk chemical facilities to vet individuals with access against the Terrorist Screening Database.

- Napolitano notes that DHS has made historic strides in aviation security, including accelerating the deployment of new security equipment at domestic airports, and launching an international initiative that, in October 2010, produced a first-of-its-kind global agreement by 190 nations to increase aviation security standards worldwide. In 2011, DHS will continue, and hopefully complete, negotiations with the European Union on strengthening information sharing in the aviation environment, and extend such information sharing to other continents as well.

- Another set of DHS initiatives involves border security and immigration enforcement. Napolitano advised that there are now more personnel, technology, and infrastructure on the southwest border than ever before in U.S. history. The number of illegal crossings, the best indicator of illegal traffic, is now at less than half its all-time high. In the past two years, DHS has seized more contraband in illegal bulk cash, weapons, and drugs, than in recent years.

DHS Secretary Napolitano speech:

http://www.dhs.gov/ynews/speeches/sp_1296152572413.shtm

Dept of Justice Issues Notice on FCPA Fine on Maxwell Technology

The Justice Department issued a press release announcing that Maxwell Technologies Inc. has agreed to pay an \$8 million criminal penalty to resolve charges related to the Foreign Corrupt Practices Act (FCPA) for bribing Chinese government officials to secure sales of Maxwell's products to state-owned manufacturers of electric-utility infrastructure in several Chinese provinces. Maxwell Technologies Inc. is a publicly traded manufacturer of energy-storage and power-delivery products based in San Diego. According to court documents, Maxwell's wholly owned Swiss subsidiary, Maxwell S.A., engaged a Chinese agent to sell Maxwell's products in China.

From at least July 2002 through May 2009, Maxwell S.A. paid more than \$2.5 million to its Chinese agent to secure contracts with Chinese customers, including contracts for the sale of Maxwell's high-voltage capacitor products to state-owned manufacturers of electrical-utility infrastructure.

The agent in turn used Maxwell S.A.'s money to bribe officials at the state-owned entities in connection with the sales contracts. Maxwell S.A. paid its Chinese agent approximately \$165,000 in 2002 and increased the payments to the agent to \$1.1 million in 2008. In its books and records, Maxwell mischaracterized the bribes as sales-commission expenses. According to court documents, Maxwell's U.S. management discovered the bribery scheme in late 2002. Maxwell also reached a settlement of a related civil complaint filed by the U.S. Securities and Exchange Commission (SEC) charging Maxwell with violating the FCPA's anti-bribery, books and records, internal controls and disclosure provisions. As part of that settlement, Maxwell agreed to pay \$5.654 million in disgorgement of profits and nearly \$700,000 in prejudgment interest relating to those violations. Justice Dept. notice:

<http://www.justice.gov/opa/pr/2011/January/11-crm-129.html>

White House Posts Blog Report on Reorganization To Improve Competitiveness - Trade and Exports First Focus

The White House blog announced that trade and exports will be first focus of the Administration's government reorganization effort discussed by the President in his State of the Union address. According to the blog, for many businesses, the current state of the federal government means that they may not have all the assistance they need to compete around the world. For example, the federal government has more than a dozen different agencies involved in exports. While these agencies all work well with each other, the blog observes that it is not the optimal organization or allocation of resources if the system was being designed from scratch. The Administration wants to ensure that all of the resources available are being aligned into negotiating the best agreements, enforcing U.S. trade rights, supporting U.S. exporters and promoting their products.

According to the blog, the first focus will be looking at trade and exports to see how these functions can be reformed to give U.S. companies a leg up in the global economy. The blog notes that the leaders of the reorganization effort will draw on the resources of Office of Management and Budget (OMB) to launch and run this effort, and they will be reaching out to the business community, experts, those who run these programs, members of Congress, and a wide range of stakeholders and citizens to get their input about how government can be reformed to best work for them. White House notice:

<http://www.whitehouse.gov/blog/2011/01/30/jeff-zients-will-lead-reorganization-federal-government>

United States and Canada Call for Integrated Border and Cargo Security Strategy

The U.S. and Canada agreed to work more closely together to better focus infrastructure investment needed to speed cross-border trade. President Obama and Prime Minister Stephen Harper recently signed a pact calling for greater U.S.-Canada cooperation in trade and security. "We will focus investment in modern infrastructure and technology at our busiest land ports of entry," the leaders announced in their declaration.

The agreement calls for increased integration and cooperation in all areas of security and law enforcement, building on existing bilateral programs. The declaration spelled out general principles, leaving details to be worked out in the coming months by the U.S. and Canadian governments. U.S. trade with Canada is increasing, rising 12.6 percent in November to \$39.5 billion. That's raising fear of congestion at border crossing points. The nations agreed to share border facilities and infrastructure "where appropriate," which may raise concerns about sovereignty. The North American trading partners will also develop an integrated cargo security strategy and compatible cargo screening methods. This will help speed the subsequent clearance and movement of imported goods, either by rail or truck, across the U.S.-Canada border.

The declaration also calls for common practices and streamlined customs processing procedures and regulations, "where practicable." The nations will organize bi-national port of entry committees to coordinate planning and funding for border infrastructure and facilities. In addition, a U.S.-Canada Regulatory Cooperation Council will work to streamline and simplify regulations and make them more compatible in both countries. www.joc.com (2/4/11)



IATA, ICAO, and OAG Create Online Site for Dangerous Goods by Air Regulations

Airlines, freight forwarders and shippers can now gain faster access to the latest regulations and information for the carriage of dangerous goods by air with the launch of DG Online by the International Air Transport Association (IATA), the International Civil Aviation Organization (ICAO) and Official Airline Guide Cargo, a division of UBM Aviation (OAG Cargo). DG Online combines the industry's leading publications in an online format:

1. IATA Dangerous Goods Regulations Manual (DGR),
2. ICAO Technical Instructions (TI), and
3. ICAO Emergency Response Guidance manual (ERG).

DG Online features rapid referencing of all standards, advanced search functions by substance, subject / classification or by UN code, upcoming multi-language support, access to IATA Airline variations and ICAO State variations, and real-time updating of the latest revisions of standards directly from IATA and/or ICAO.

Users can store favorites and create and print customized checklists to ensure packing and regulatory compliance and for the acceptance of shipments containing dangerous goods.

DG Online:

<http://www.oagcargo.com/Products/Online/DG-Online-Package>

CBP Posts Notice on HTS Numbers Not Allowed in AES

U.S. Customs and Border Protection (CBP) posted a summary of changes to the Automated Export System Trade Interface Requirements (AESTIR) that was effective 01/25/11. CBP notice;

http://www.cbp.gov/linkhandler/cgov/trade/automated/aes/tech_docs/aestir/june04_intro/june04_summary_of_chngs.ctt/june04_summary_of_chngs.doc

Secretary Clinton States Colombia FTA Will Be Sent to Congress in 2011

During recent remarks made following a meeting with Colombian Vice President Garzon, Secretary of State Clinton told reporters that the Obama Administration would send the U.S.-Colombia Free Trade Agreement to Congress in 2011. Secretary Clinton noted that there are still negotiations taking place and when there is an agreed-upon text, the Administration will act, as quickly as possible, to send it to Congress.

According to Secretary Clinton, the U.S. and Colombia are discussing some clarifications and some concerns that need to be addressed. Secretary Clinton notice:

<http://www.state.gov/secretary/rm/2011/01/155566.htm>

CRS Reports U.S. Trade Policy with Caribbean May Need to be Reoriented

The Congressional Research Services (CRS) issued a report (RL33951) entitled, "U.S. Trade Policy and the Caribbean: From Trade Preferences to Free Trade Agreements. In recent years, Congress had leaned toward short-term extensions of the Caribbean and other preference programs, however, a number of members seek a comprehensive review of these programs to harmonize and revamp their provisions.

Congressional concern over eligibility criteria, simplifying rules of origin, targeting the least developed countries, and standardizing benefits are among a number of broad issues being debated as part of the preference reform agenda. In addition, CRS notes that there are a number of issues that may suggest the need for reorienting U.S. trade policy in the Caribbean region. According to the report, the most effective trade preferences appear to be the apparel provisions provided under the U.S.-Caribbean Basin Trade Partnership Act (CBTPA) and the Haitian Hemispheric Opportunity through Partnership Encouragement Act (HOPE), as amended.

(Continued below)

Both were extended through 09/30/20, in the Haiti Economic Lift Program (HELP) Act of 2010 (P.L. 111-171). These provisions, however, are not well suited to the services and energy based economies of the smaller Eastern Caribbean countries. CRS reports that achieving broader regional integration may be difficult to reconcile with the needs of very small developing Caribbean countries, which are highly vulnerable to the vicissitudes of global economic trends and may require new and creative solutions, particularly if U.S. policy is still driven by the historical focus on development and regional security issues in addition to trade liberalization. In the context of continuing with trade preferences in similar or altered form, or opting for an FTA, the solution is not immediately obvious. CRS report:

<http://www.fas.org/sgp/crs/row/RL33951.pdf>

World Economic Forum Posts Global Risk Guidelines - May Help C-TPAT Members

The World Economic Forum offers a comprehensive series of reports, which examine in detail the broad range of global issues it seeks to address with stakeholders as part of its mission of improving the state of the world. Recently released, *Global Risks 2011, Sixth Edition*, provides a high-level overview of 37 selected global risks as seen by members of the World Economic Forum. It provides analyses of the risks that are shaping the global environment in order to help stakeholders understand and manage emerging risks.

Global Risks 2011, Sixth Edition:

<http://riskreport.weforum.org/>.



Trans-Pacific Container Carriers Predicting Tight Capacity

According to the Transpacific Stabilization Agreement (TSA), vessel utilization rates in early January in the eastbound trans-Pacific averaged 88 percent to the West Coast and 95 percent to the East Coast leading up to the Chinese New Year celebration, and trade volumes for the rest of 2011 will be strong beginning in late spring. The TSA, which represents 15 of the largest carriers in the trade from Asia to the U.S. predicts that tight vessel space and equipment shortages could develop later this year when the eastbound Pacific enters the traditional peak shipping season. The carrier discussion group projects a volume increase of 7 to 8 percent in the eastbound Pacific in 2011. Vessel capacity in the trade lane will increase 8.8 percent this year, so supply and demand should be roughly in balance. TSA reported utilization rates for the fourth quarter of 2010 that were reported by its 15 member lines were higher than what some industry analysts had published. Vessels calling at West Coast ports in late October reached a high of 96 percent, falling to a low of 79 percent in early December. TSA member lines calling at East Coast ports reported a high of 94 percent utilization in early October, with average utilization falling to 84 percent by the end of November. As usually happens each year in January, utilization rates increase because factories in Asia fill a rush of orders before they close down for two or more weeks for the Chinese New Year celebration. Chinese New Year was somewhat early this year, beginning on Feb. 3. Equipment availability, which was a problem through much of 2010, could be problematic again this year. According to TSA, container manufacturers in China are operating at about half of the peak production rate they reported in 2008. The container manufacturers by the end of 2011 should produce close to 3 million units. www.joc.com (2/4/11)