

# International Trade Law Newsletter



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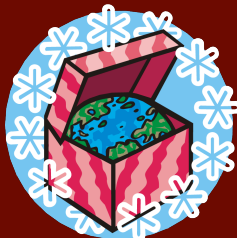
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## December Quiz



We present you with our

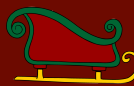
### Christmas Around The World

**Quiz.** Here is the link:

[www.exportimportlaw.com/  
december2008quiz/](http://www.exportimportlaw.com/december2008quiz/)

After you take the quiz, grade yourself  
by the number of correct answers:

20-25 Master Elf  
15-19 Rocking Reindeer  
10-14 Standard Santa  
5-9 Borderline Scrooge  
0-4 No-gift list



## Compliance Programs as Profit Centers During Economic Downturns

by Oscar Gonzalez, Attorney

There is a temptation during economic downturns for companies to slack off in the legal compliance area. Not only is it dangerous to surrender to that urge, but it also misses the great economic advantages that inevitably come from maintaining a real

trade compliance program during economic slowdowns.

Let's take audits or investigations, for example. They are like having federal regulators perform a company-wide root canal. But a fascinating realization happens in the months and years following an audit or investigation. Defending and preparing for the intrusion impose a discipline that helps the target company become more profitable in the long run.

*"The only thing more expensive than education is ignorance."*  
Benjamin Franklin

Back to the root canal. You get dental rot because you aren't as attentive as you should have been to your dental health or, if you were attentive, something snuck through undetected in spite of your best efforts. But a bad tooth is a bad tooth. You wouldn't stop brushing and flossing during lean times, would you? Indeed, it is during lean times that you take extra care to make sure those things you currently have and the processes in place are not compromised out of fear that you won't have the resources later to tend to emergency repairs. Taking pain drugs to mask the problem and in the hope that the infection won't spread is bound to land you in the emergency room and wipes out any "savings" from not going to the dentist and setting you up for an early introduction to the lovely lifestyle of dentures. But if you dare visit the dentist, you certainly are prepared to save your winning smile.

If you have a sound international trade compliance program, you can better take advantage of government initiatives to your advantage. For example, you and your industry peers may be able to bring a successful challenge on foreign competitors under our antidumping laws. You will be better able to take advantage of the protections that US

Customs and Border Protection offers to protect your intellectual property.

Is there proof that trade compliance is a money saver? It's difficult to marshal empirical evidence for or against the proposition, but it's clear that enhanced penalties for both export and import violations are designed to dissuade companies from viewing fines and penalties as the cost of doing business, merely a nuisance that one suffers through rather than invest in compliance programs. It's hard to hold on to that kind of thinking, especially during lean times, when you're whacked with penalties in the tens of millions of dollars.

Let's also give the Government some credit for trying to provide empirical proof that compliance saves you money. Cargo examinations and delays are bottom line killers, but does enrolling in voluntary compliance programs like the Customs-

Trade Partnership Against Terrorism (C-TPAT) help? Yes, according to the latest report from CBP.

Neglecting trade compliance during lean times allows obvious and hidden problems to fester. Now is the time to take a full measure of your compliance weaknesses and strengths, to find the economies of scale (you wouldn't believe how much waste and fraud a good compliance program can eliminate), and to avoid problems with federal regulators. Trade compliance, even in big companies that have compliance programs with all the bells and whistles, is seldom a big-ticket item compared to other company expenditures. It becomes a big-ticket item only when the feds knock at your door and you're not ready. Federal enforcement authorities have an uncanny ability to detect when companies are cutting legal corners. So, don't cut any. Corners, that is. Keep your compliance efforts robust and honest. Your bottom-line will be healthier for it. Maybe even your smile will improve.

## New Website For Best Customs Broker Review Course

What to do when our customs broker exam course becomes so popular that it outgrows our website? Create its own website, of course. Sleek, refined, and even-more user-friendly than before, our course's new website is:

**[www.bestcustomsbrokerscourse.com](http://www.bestcustomsbrokerscourse.com)**

With a 94% pass rate, tailored homework, demo, boot camps in several cities, and a winning program, here is what some of our graduates say:

Kay Holsomback, Neiman Marcus Director, International Operations: *I passed!!! It looks like I made an 80% on the exam. Thanks for all your help with the class and the materials.*

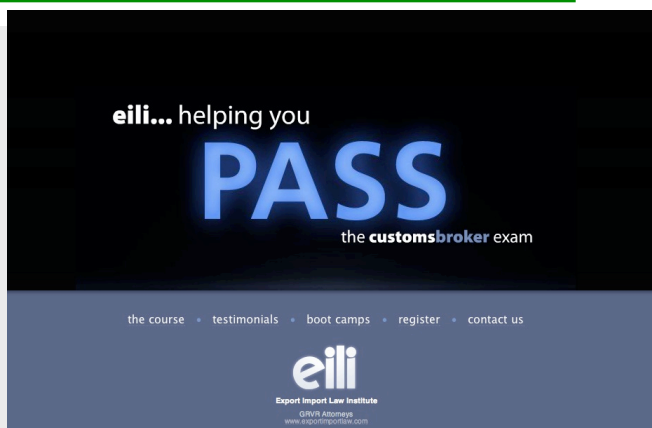
Gwen Ozieblo, Anna's Linens: *I passed! 83.7%!!!, Thanks for everything! Thank you so much, I'm so excited!*

Judy Zhan, American Hintech Shipping Department: *The tears are still on my checks - uncontrollable joy. I made it. No one can believe I did this. I am almost 60 yrs old and came to the United States 13 yrs ago and began to learn English then. I got my citizenship on January 2008. I started studying for this exam before Xmas 2007. People who did not pass the exam - never give up. Instead, think about me! I made it.*

Charles Kiboi, Dallas Semiconductor/Maxim: *I just got my letter from Customs and I passed with 76.25%. Thank you for all the support. Your class helped a whole lot. Thank you again.*

Brenda Cashion, VP - Operations, Pinnacle Interior Elements, Ltd.: *I got 83.75%! . . . I couldn't have done it without your help & constant encouragement, the boot camp & conference calls. All the time spent within the group environment helped me to look at this process from many perspectives and that is why I feel that I passed. The group input was invaluable to me!*

For more information, including a demo, go to [www.bestcustomsbrokerscourse.com](http://www.bestcustomsbrokerscourse.com).



## Two new great online tools for importers

There are two new online tools to help you with compliance. Both are free. [web links found on our website and electronic newsletter].

The HTS Online Reference Tool - From the US Trade Commission, this is a searchable database of the entire HTS with a thesaurus, chapter notes, and cross-references to CBP rulings.

Antidumping Scope Information by Country - There's no longer any excuse for not knowing whether antidumping duties apply to your imported products. Courtesy of the US International Trade Association.



## New Intra-Company License Exception Feels Like C-TPAT For Exporters

Export laws mostly seek to police transactions between unrelated companies, for example, the red flag indicators, the “know your customer” guidelines, and the extensive screening requirements. Related company exports, which tend not to have the same proliferation risks, still have to clear the same licensing hurdles as unrelated company exports. This can be silly and expensive not only for related companies, but also for the assemblage of federal agencies that review license applications.

But this is probably about to change.

The Bureau of Industry and Security has proposed a new license exception for intra-company transfers. The new rule is trying to strike a balance, entrusting the related companies to self-police to an extent, but also requiring proof that the companies have set up a compliance program against unlicensed deemed exports. Indeed, some of the terminology for the ICT (intra-company transfer) exception is tweaked from the deemed export, like the ICT control plan that is akin to the technology control plan. However, more striking is how similar the new rule is to the Customs-Trade Partnership Against Terrorism (C-TPAT). For example, the ICT rule requires a self-evaluation program, screening of foreign national employees and agents, a training and awareness program, extensive security of electronic information, and annual reporting. Applicant companies must make themselves open to a BIS audit about every two years.

What is the difference between the new ICT license exception and a Special Comprehensive License? The SCL is valid for a four-year period. ICT, in contrast, has an unlimited validity period as long as all terms and conditions are met. The SCL and ICT also vary in terms of eligibility of certain items as well with respect to the procedures and requirements for obtaining authorization. Finally, ICT must be used for internal company use only, whereas a SCL may authorize the sale of items to customers outside of a company.



## Do-Gooder Corner Heifer International

*"If there is one thing I could give to the struggling people of the world it would be self-reliance. Everyone deserves the dignity of providing for themselves and their families. That's why I support Heifer International."*

- Walter Cronkite,  
journalist and Heifer supporter

'Tis the season to do wonderful, giving things. There are millions of Americans in dire need, and billions of people in foreign countries in even graver circumstances. One group seems to have found an answer to self-reliance. Heifer International provides live cows, sheep, chickens, and other animals for people to use as a means to feed themselves. Here's an example:

*"In Rwanda, Christine Makahumure showed the true meaning of passing on the gift. In 1994 genocidal war that raked Rwanda destroyed everything Christine had. She saw her son and husband shot to death when they were caught in a crossfire. When the fighting ended, Christine was barely able to feed her daughter and parents. But then she received a Heifer cow. The milk supplemented the family's meager diet, and she was able to buy a small home with income from selling milk. Christine gave her first calf to a neighbor - but she didn't stop there. She provided money so her neighbors could build and apply for their own Heifer cow. And she adopted four war orphans and became a living example of passing on the gift."*

To learn more, go to [www.heifer.org](http://www.heifer.org).



## NEWS NEWS NEWS

### **Chevron Wins an Alien Tort Statute Case - But the Victory May Be Less Important than It Might Seem** **Findlaw.com**

"Yesterday, a federal jury in San Francisco rejected every claim made by a group of Nigerians who had sued Chevron for its role in aiding and abetting a brutal 1998 attack by Nigerian government forces. The case, *Bowoto v. Chevron*, has been watched closely by both supporters and critics of the Alien Tort Statute ("ATS"), the law under which this suit was brought. In this column, I will argue that the verdict is much less significant than it seems, and that critics of the ATS should be wary of reading too much into Chevron's victory....." by Anthony Sebok, Professor at Benjamin N. Cardozo School of Law in New York City.

### **BIS to Post Commodity Classification Information**

The Bureau of Industry and Security (BIS) is providing companies the opportunity to have their Commodity Classification information made accessible via the BIS website. The BIS is taking this action to enhance procedural transparency in the licensing process and to help exporters comply with U.S. export and reexport control laws. If your company currently has, or plans to have, Commodity Classification information or an export control point of contact available on your company's website, and you would like this information to be accessible via the BIS website, email [CommodityClassification@bis.doc.gov](mailto:CommodityClassification@bis.doc.gov). Provide the following information in your email which will then be posted on the BIS website: Company name, General description of the products/services, Commodity classification information website address, and Export control point of contact.

### **General Motors' strength is overseas** **(LA Times)**

"Nearly three-fifths of the employees at General Motors Corp. work for a company that makes cars that are admired, popular and profitable. GM has a bigger presence outside the U.S. than in it, employs more people in other countries than here, and actually makes money selling cars everywhere from Sao Paulo to Shanghai. Its U.S. revenue has sunk 24% in the last three full years, but in the rest of the world, GM can boast a 28% increase...."

# Calendar



## **Power Lunch: Fines, Penalties, and Forfeitures**

December 15, 2008 (Monday)  
12 noon - 1 pm Central  
Dallas, Texas

Learn how to avoid penalties, fines, forfeitures, seizures, and other compliance emergencies that importers risk, and find out how to handle those emergencies if they do materialize. There is no cost to attend.

Registration: Free. Address provided to confirmed registrants.

214.720.7720 or [info@exportimportlaw.com](mailto:info@exportimportlaw.com)

## **Seminar: Recent Developments: The Lacey Act, the Consumer Product Safety Improvement Act, and the First Sale Rule**

December 16, 2008 (Tuesday)  
Laredo, Texas  
Sponsored by the Laredo Licensed U.S. Customs Brokers Association

Registration: [www.lluscba.org](http://www.lluscba.org)

## **Webinar: Mexico Legal Update**

December 18, 2008 (Thursday)  
11 am - 12 noon Central

Mexico continues to be an important and thriving market and opportunity for US manufacturers, importers, and exporters. This workshop, delivered by Martin Hagerman, one of Mexico's leading trade and investment attorneys, will provide an overview and update of the legal regulations for foreign investment in Mexico. Mr. Hagerman will be speaking live from Mexico City.

Registration: \$99 per access line. [www.exportimportlaw.com](http://www.exportimportlaw.com)

## **Importing Compliance Seminar**

February 19, 2009 (Thursday)  
San Antonio, Texas

This half-day workshop provides you with all the tools you need to comply with US import laws. Registration: International Trade Center - San Antonio, Texas [www.texastrade.org/](http://www.texastrade.org/)

*Year-round*

## **The Best Customs Broker Exam Review Course**

[www.bestcustomsbrokercourse.com](http://www.bestcustomsbrokercourse.com)

Smart people know that now is the perfect time to gain a competitive edge for a promotion or salary increase, and to find that hedge against economic uncertainty. One of the surest roads to financial security is to become a licensed US customs broker. Compared to other professional degrees or licenses, a customs broker's license is relatively easy, fast, and inexpensive to obtain...and the payoffs are astounding. Start studying for the April 2009 now!

## GRVR Attorneys

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Antonio · Mexico City · Sao  
Paulo, Brazil · Paris, France

**Our law firm has for two  
decades delivered  
excellent legal  
representation to our  
clients. With offices in  
six cities, four countries,  
and three continents, we  
can fill your legal needs  
regardless of your  
location.**

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