



WILTSHIRE
& GRANNIS LLP

NEWS

W&G Successfully Challenges Customs and Border Protection Proposal to Impose Coastal Trading Restrictions on Undersea Telecommunications-Related Activities

WASHINGTON D.C. (October 1, 2009)

Following vigorous advocacy in a compressed timeframe by lawyers from Wiltshire & Grannis LLP ("W&G"), U.S. Customs and Border Protection ("CBP") has withdrawn its sweeping proposal to impose coastal trading restrictions on a variety of offshore activities, including undersea telecommunications-related activities.

On July 16, 2009, CBP published a energy industry-focused proposal that would have modified the scope of equipment subject to the Jones Act's coastwise trading restrictions. The Jones Act requires U.S.-built, -flagged, -owned, and -crewed vessels for transportation of merchandise between U.S. coastwise points. CBP's proposal would have revised substantially CBP's interpretation of "vessel equipment" excluded from coastwise trading restrictions, rendering as "merchandise for transport" a broad range of equipment used in operational tasks on board vessels, including cable ships. CBP's proposal would also have extended the Jones Act's coastwise trading restrictions to the entire U.S. outer Continental Shelf.

Representing Tyco Telecommunications (US) Inc., W&G argued that CBP's proposal failed to account for CBP's longstanding and separate treatment of undersea cable activities or the impact of its proposal on such activities. W&G also argued that CBP's proposed extension of the Jones Act's coastwise trading restrictions to the entire outer Continental Shelf would violate U.S. law and treaty obligations, which establish U.S. jurisdiction on the outer Continental Shelf *only* over minerals exploration and exploitation. Finally, W&G argued that CBP's proposal would harm U.S. national security and economic interests.

On October 1, 2009, CBP published a notice in the *Customs Bulletin* announcing that CBP had withdrawn its entire proposal.

The W&G team was led by undersea cable regulation expert Kent Bressie, with support from Madeleine Findley.

A copy of CBP's withdrawal notice can be found at http://www.cbp.gov/linkhandler/cgov/trade/legal/bulletins_decisions/bulletins_2009/vol43_1001_2009_no40/Vol_43_No_40_Title.ctt/Vol_43_No_40_Title.pdf

For more information about W&G's industry-leading undersea cable regulatory practice, please contact Kent Bressie by telephone at +1 202 730 1337 or by e-mail at kbressie@wiltshiregrannis.com