



MADE IN USA REGS

The Federal Trade Commission (FTC) has issued a Proposed Rule on the "Made in USA" standard. The proposed regulations would retain the "all or virtually all" requirement that has been utilized for many years, but also explicitly apply the standard to sales and promotional literature in printed and electronic form and create a financial penalty process. Clients are encouraged to submit comments by the Sept. 14 deadline. Contact [Sean Murray](#) with questions. 85 Fed. Reg. [43162](#) (July 16, 2020).

SECTION 321 UPDATE

On July 31, 2020, CBP published an administrative ruling on the eligibility for informal duty-free entry of online fulfillment providers such as Amazon and eBay. The ruling restricts these online fulfillment providers from utilizing duty-free entry under Section 321 when a U.S. owner or purchaser of the merchandise is not provided to CBP. HQ [H290219](#) (July 28, 2020). CSMS [#43534680](#) (July 31, 2020).

CBP has updated the ACE [Cargo Release CATAIR](#), to require Type 86 Cargo Release entries to provide, as the consignee, the name of the owner or purchaser "in care of" the address of the domestic warehouse or fulfillment center to which the shipment is destined, including either IOR number or entity name and address. The CATAIR also indicates that "consignee" means "the individual or firm in the United States on whose account the merchandise is shipped." CSMS [#43620427](#) (Aug. 10, 2020).

FRANCE DIGITAL SERVICES TAX

On July 16, the Office of the United States Trade Representative (USTR) announced a determination that France's Digital Services Tax (DST) is unreasonable or discriminatory and burdens or restricts U.S. commerce. The USTR identified a series of France origin materials including women's make-up, soap, and handbags to be assessed additional duties of 25%, but suspended the additional duties until January 6, 2021. This provides the opportunity for the U.S., France, and other EU countries to negotiate a solution. 85 Fed. Reg. [43292](#) (July 16, 2020).

EU AIRBUS 301 DUTIES

On August 12, the Office of the U.S. Trade Representative (USTR) [released](#) an advanced notice to be published in the Federal Register August 18 of modifications to existing Section 301

FALL 2020 TRAINING SEMINARS

Due to COVID-19, our fall training seminars will be conducted by webinar only.

- FTZ 101 – Sept. 15 – 17
- FTZ 201 – Sept. 22 – 24
- Import/Export 101 – Oct. 6 – 8
- Import/Export 201 – Oct. 13 -15

More detailed information is posted to our website. Visit our website [www.millerco.com](#) to register or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

CANADA ALUMINUM

On August 6, 2020, President Trump issued an [Executive Order](#) imposing additional 10% Section 232 duties on Canadian-origin non-alloyed unwrought aluminum classified in HTSUS subheading 7601.10 effective Aug. 16. CSMS [#43654621](#) (Aug. 13, 2020).

On August 7 the firm issued detailed general and FTZ [guidance](#). FTZ Privileged Foreign (PF) admissions should be considered on or after August 16. Contact [Marshall Miller](#) with questions.

Canada has [proposed](#) to retaliate by imposing a 10% duty on U.S.-origin products, including certain aluminum and aluminum products, refrigerators, household washing machines, bicycles, metal furniture, and golf clubs.

CHINA SECTION 301 UPDATES

On July 17, 2020, the U.S. Trade Representative (USTR) announced the process for requesting extensions for China Section 301 List 4A product exclusions set to expire on September 1, 2020. Extension requests were due by August 14. 85 Fed. Reg. [43639](#) (July 17, 2020).

On July 20, the USTR announced sixty-one (61) new China Section 301 List 4A product exclusions. These product exclusions are retroactive to September 1, 2019 and expire on September 1, 2020. 85 Fed. Reg. [44563](#) (July 23, 2020).

On July 29, the USTR announced the extension of fourteen (14) China Section 301 List 2 product exclusions. These product exclusions expire on December 31, 2020. 85 Fed. Reg. [45949](#) (July 30, 2020).

On August 6, the USTR announced the extension of two-hundred and sixty-six (266) China Section 301 List 3 product exclusions that were set to expire on August 7, 2020. These List 3 product exclusions

FEMA PPE RULE

The Federal Emergency Management Agency (FEMA) has published revisions to its regulations on personal protective equipment (PPE) exports. The revisions change the scope of covered products to exclude some filtering facepiece respirators and include certain surgical gowns. The exemptions and letter of attestation requirements are unchanged. The FEMA PPE export restrictions now apply until December 31, 2020. Contact [Sean Murray](#) with questions. 85 Fed. Reg. [48113](#) (Aug. 10, 2020); CSMS [#43631316](#) (Aug. 11, 2020).

HONG KONG ORIGIN

CBP has [issued](#) a General Notice that, effective September 25, 2020, imported goods produced in Hong Kong must be marked as China origin. 85 Fed. Reg. [48551](#) (Aug. 11, 2020).

CBP has issued Frequently Asked Questions ([FAQ](#)) guidance that goods will still be declared on Customs entries as Hong Kong ("HK") and subject to duties as Hong Kong origin, not China, although marked as China origin. After the transition period, improperly marked goods may be brought into a foreign-trade zone to be properly marked under a permit to manipulate.

HONG KONG LICENSES

The Bureau of Industry and Security (BIS) has issued a Final Rule, effective July 31, that suspends a number of license exceptions for Hong Kong so that only the license exceptions available for China are available for Hong Kong. 85 Fed. Reg. [45998](#) (July 31, 2020).

HONG KONG SANCTIONS

On August 7, the Office of Foreign Assets Control (OFAC) [announced sanctions](#) on a number of individuals who have contributed to the situation in Hong Kong. These individuals are being placed on OFAC's Specially Designated Nationals (SDN) List.

OFAC has created a new [resources page](#) on Hong Kong related sanctions.

CHINA SANCTIONS US & NGO

On August 10, China [announced](#) it was sanctioning several U.S. lawmakers and NGO leaders. The announcement did not provide details on the sanctions. The sanctioned individuals include Marco Rubio (R-FL.), Ted Cruz (R-TX), Josh Haley (R-MO), Tom Cotton (R-AR), Pat Toomey (R-PA),

additional duties on European Union imports related to the US-EU dispute over large civil aircraft (Airbus) subsidies. Effective September 1, the modifications do not the duty rates, but slightly change the products subject to 25% additional duties. The minor changes to the product lists are considered a somewhat conciliatory action encouraging negotiations, but do relatively increase the additional duty impact on products of France and Germany. Clients are encouraged to review the product lists included in the notice to identify duty liability. 85 Fed. Reg. (August 18, 2020).

CHINA 301 EXCLUSION PROTESTS

Millions of dollars in refunds have been lost due to product exclusions granted after entry liquidations. In a recent meeting of the Treasury Commercial Customs Advisory Committee (COAC), CBP indicated that this issue is under further consideration. The Reconciliation program could be utilized. Clients should contact [Brian Murphy](#) with questions.

CHINA ENTITY LIST

The Bureau of Industry and Security (BIS) has added eleven entities to the Entity List for activities related to China's oppression of its minority Muslim population in western China. 85 Fed. Reg. [44159](#) (July 22, 2020).

CHINA AG SUBSIDIES

The U.S. has submitted its [findings](#) of excessive China agricultural subsidies to the World Trade Organization (WTO) and requested permission to impose tariffs on Chinese goods to offset the \$1.3 billion annual subsidies. This is one more potential for increased U.S. duties against China imports in 2020.

CHINA MAGNITSKY SANCTIONS

On July 31 OFAC [added](#) two Chinese persons and Xinjiang Production and Construction Corp. (XPCC) to its Specially Designated Nationals (SDN) List. It also added General License (GL) [2](#) to permit winding down operations with XPCC and a new [Frequently Asked Question \(FAQ\)](#) on the GL. 85 Fed. Reg. [47838](#) (Aug. 6, 2020).

232 PRODUCT EXCLUSIONS

In a ruling that could have a substantial impact on the Section 232 product exclusion process, the U.S. Court of International Trade (CIT) has ordered the Bureau of Industry and Security (BIS) to verify the agency record and explain its denial of 12 steel product exclusion requests. JSW Steel (USA) Inc. v. U.S., CIT Slip Op. [20-111](#) (Aug. 5, 2020).

HAND SANITIZER HTSUS

CBP has [proposed](#) the revocation of rulings classifying hand sanitizers in HTSUS subheading 3824.99.92 (5%) and reclassifying them as "disinfectants" in subheading 3808.94.50 (5%). Comments are due by September 4. 54 Cust. B. & Dec. [177](#) (Aug. 5, 2020).

ITC FUNDING

The U.S. International Trade Commission (ITC) has [requested](#) an additional \$2.75 million over its current funding of \$99.4 million because of the number of antidumping and Section 337 investigations.

now expire on December 31, 2020. The remaining seven hundred thirty-one (731) List 3 product exclusions expired on August 7. 85 Fed. Reg. [48600](#) (Aug. 11, 2020).

• On August 13, the USTR issued notices that modified the terms of previously-granted product exclusions for digital clinical thermometers and tractor shovel loaders. 85 Fed. Reg. [49414](#); 85 Fed. Reg. [49415](#) (Aug. 13, 2020).

• Clients may contact [Ryan Thornton](#) for a current copy of the firm's proprietary spreadsheet of all product exclusions to date.

GSP EXPIRATION

The Generalized System of Preferences (GSP) expires on December 31. While [renewal](#) legislation is pending, the Trump Administration's lack of support means clients should plan on GSP not being renewed and imports being subject to Customs duties beginning January 1, 2021.

LITHIUM ION BATTERIES - FTZ

A recent Production Application secured approval from the FTZ Board to once again allow for inverted duties on certain lithium-ion batteries that were previously required to be admitted in Privileged Foreign (PF) status. Contact [Scott Taylor](#) with questions. 85 Fed. Reg. [47166](#) (Aug. 4, 2020).

MPF INCREASE

As of October 1, 2020, CBP will increase the maximum Merchandise Processing Fee (MPF) 8.9% to \$528.33. The 0.3464% rate does not change. Other CBP fees, such as vessel arrival fees, broker permit fees, etc., will also increase. 85 Fed. Reg. [45646](#) (July 29, 2020). CSMS [#43511668](#) (July 29, 2020).

DDTC TELEWORK EXTENSION

The Directorate of Defense Trade Controls (DDTC) has extended until December 31, 2020 the temporary modifications, suspensions, and exceptions to the International Traffic in Arms Regulations (ITAR) to allow continued telework operations during the current COVID public health emergency. 85 Fed. Reg. [45513](#) (July 29, 2020).

E214 ACE ROLLOUT

Phase 2, Release 2 of the E214 will be released in September 2020. On July 27 the National Association of Foreign-Trade Zones (NAFTZ) submitted a letter indicating 7 key functionality issues that should be addressed in E214 Phase 2, Release 2 that have not been decided. A new draft ACE CATAIR (Version 2.09) has been completed by CBP but has not yet been posted. Contact [Linda King](#) with questions.

TIK TOK AND WeCHAT

On August 6, President Trump signed Executive Orders [sanctioning](#) popular smart phone applications [TikTok](#) and [WeChat](#). President Trump cited fears that the Chinese applications could steal U.S. personal data and provide it to the Chinese government. Covered transactions are to be restricted beginning September 20. On August 14, President Trump issued another

Executive Order (R-NJ), and leaders of Human Rights Watch, the National Endowment for Democracy, the National Democratic Institute, the International Republican Institute, and Freedom House.

CRIME CONTROL

The Bureau of Industry and Security (BIS) has requested comments by September 15 on items that are currently controlled for Crime Control (CC) reasons as well as items that may become subject to CC controls. Items for possible future control include facial recognition and biometric related systems, non-lethal visual disruption lasers (dazzlers), and long-range acoustical devices. 85 Fed. Reg. [43532](#) (July 17, 2020).

FORCED LABOR

• On August 11, CBP [issued](#) a Withhold Release Order for imported garments produced by a number of companies owned by the Hero Vast Group, based upon the reasonable indication that the garments were produced with prison labor. Cargo will be detained at all U.S. ports by CBP. Importers have the right to either demonstrate the goods were produced with forced labor or re-export.

• On August 13, CBP [announced](#) the first penalty issued for imports made with forced labor. The \$575,000 penalty against Pure Circle stems from importations of stevia processed in China with prison labor.

• Clients are reminded that once imports are deemed prohibited due to forced labor issues, then CBP has no discretion to allow U.S. imports after remediation.

UAV EXPORTS

The Department of Justice (DOJ) has [announced](#) that [Mr. Usama Darwich Hamade](#) was sentenced to 42 months in prison for his role in attempting to ship aircraft and UAV parts to Hezbollah in Lebanon without a license.

IRAN PENALTY

On July 28, OFAC [announced](#) a \$824,314 [settlement agreement](#) with Whitford Worldwide for its non-U.S. subsidiary's role in selling coatings to Iran.

NICARAGUA SANCTIONS

OFAC has issued a Final Rule that updated the Nicaragua Sanctions Regulations to reflect the Nicaragua Human Rights and Anticorruption Act of 2018 and add General Licenses relating to U.S. Government activities. 85 Fed. Reg. [43436](#) (July 17, 2020).

BROKERS EXAM

The Customs Broker License [Exam](#) will be held on October 8. Registration closes on September 8.

USMCA/9802.00.80

Unlike NAFTA, the USMCA appears to provide for duty-free entry of goods assembled in Canada or Mexico with U.S. components under HTSUS subheading 9802.00.80. This may provide a duty-saving opportunity for companies sourcing from Mexico or Canada. Contact [Brian Murphy](#) with questions.

NORTH KOREA PENALTY

Essentra FZE Company Limited (Essentra), an entity in the United Arab Emirates, has agreed to pay \$665,112 as part of a [settlement agreement](#) with OFAC for selling cigarette filters to North Korea.

UTILITY WIND TOWERS

On July 30, the U.S. International Trade Commission (ITC) [announced](#) that U.S. industry is materially injured by imports of utility scale wind towers from Canada, Indonesia, Korea, and Vietnam. As a result, the Commerce Department will be issuing antidumping and countervailing duty (AD/CVD) orders.

RUSSIA WTO

The USTR has requested comments by September 21 on Russia's implementation of its World Trade Organization (WTO) obligations. 85 Fed. Reg. [49412](#) (Aug. 13, 2020).

CBP HTS SETTLEMENT

The Justice Department has reached an \$8 million settlement agreement with Centric Parts and its parent CWD Holdings, LLC involving the incorrect HTS classification of mounted brake pads as unmounted pads. Two whistleblowers received a total of \$1.48 million. The Justice Department [press release](#) indicates that the CEO and CFO were advised of the misclassifications and to file a Prior Disclosure, but instructed an individual who later became a whistleblower to "delete any emails regarding the misclassification."

SUDAN GUIDANCE

On August 11, OFAC issued [guidance](#) and updated [Frequently Asked Questions \(FAQs\)](#) relating to the exports of goods and services to Sudan. The guidance and FAQs reflect the fact Sudan is no longer an embargoed country, but exporters still must exercise caution and the Darfur Sanctions remain.

OFAC PENALTY ADJUSTMENT

OFAC is increasing penalties to correspond with inflation. The base penalty on transactions over \$100,000 but less than \$200,000 will go to \$200,000. On transactions over \$200,000, the base amount will rise to \$307,922. 85 Fed. Reg. [48474](#) (Aug. 11, 2020).

CBP COO TEMPLATE

• CBP has updated its template for Free Trade Agreement (FTA) Certifications of Origin. CSMS [#43666933](#) (Aug. 14, 2020).

• Contact [Marshall Miller](#), [Sean Murray](#), or [Ryan Thornton](#) for a copy of the firm's template USMCA Certification of Origin.

CBP VIRTUAL TRADE WEEK

CBP Headquarters is hosting the [event](#) September 8-11, 2020. Topics include: USMCA, Forced Labor, CTPAT, E-Commerce, and 21st Century Customs Framework. For questions, please email TradeEvents@cbp.dhs.gov.

CBP PROTESTS

The number of Protests being filed in response to trade remedy actions has created a processing backlog at CBP. Companies should expect a significant delay in CBP Protest

[Executive Order](#) directing ByteDance to divest itself of TikTok's U.S. operations within 90 days. Contact [Sean Murray](#) with questions.

HUAWEI RESTRICTIONS

The U.S. Department of Commerce [announced](#) on August 17 that it was adding 38 more Huawei affiliates to the [Entity List](#) and refining the foreign-produced direct product rule to further restrict Huawei access to foreign-produced items that are the direct product of U.S. software or technology and apply it when any Huawei entity on the Entity List is a party to a covered transaction. Two new Final Rules will appear in the August 20 [Federal Register](#). Contact [Sean Murray](#) or [Chuck Ballard](#) with questions.

NORD STREAM 2

On July 22, the State Department released a [guidance document](#) on the Countering America's Adversaries Through Sanctions Act (CAATSA) and Russian pipeline projects.

PGA UPDATES

• Although the U.S. Department of Agriculture's (USDA) Animal and Plant Health Inspection Service (APHIS) previously indicated it would activate APHIS Core Message Set flags in Customs ACE system on August 3, APHIS is delaying implementation until January 2021. CSMS [#43224976](#) (July 1, 2020). APHIS previously posted APHIS Core Message Set [webinars](#).

• USDA Agricultural Marketing Services (AMS) has announced it will begin phased-in enforcement on September 2 of electronic filing requirements for items flagged "AM3" and "AM4." CSMS [#43661996](#) (Aug. 14, 2020).

• U.S. Fish & Wildlife Service (FWS) has [posted](#) tips on filing FWS data, including guidance on filing multiple FWS lines per entry, ACE disclaimers, modifying FWS Message Set data post-submission, and a list of authorized FWS generic species codes which may be submitted when supporting documents include valid scientific names. FWS has also [updated](#) its ACE CATAIR FWS Implementation Guide.

• The Consumer Product Safety Commission (CPSC) has indicated its intent to fully implement two-way messaging in August in ACE Production, with all filers subject to CPSC's "1USG" notification process. CSMS [#43464392](#) (July 24, 2020).

AD/CVD MAJOR CHANGES

The Commerce Department has proposed sweeping revisions to the antidumping and countervailing duty (AD/CVD) regulations that would significantly increase burdens on U.S. importers, including broadening Commerce authority to impose AD/CVD cash deposits on unliquidated Customs entries, revising circumvention rules, applying Scope Rulings back to AD/CVD Preliminary Determinations, shortening certain filing deadlines, structuring new procedures for CBP referrals under the Enforce and Protect Act (EAPA), and imposing new certification and reimbursement requirements. Comments are due by

301 DEFERRALS & RENEWALS

In recent [answers](#) to questions presented by the Senate Finance Committee and House Ways and Means Trade Sub-Committee, USTR Robert Lighthizer indicated that no more tariff deferrals or automatic Section 301 exclusion renewals will be granted.

2019 CFIUS ANNUAL REPORT

The Committee on Investment in the United States has issued its 2019 calendar year [report](#). 231 Notices were filed and CFIUS took an average of 45 days to review covered transactions and 85 days to complete investigations.

JEWELRY VALUE CASE

The U.S. Attorney for the Southern District of New York has filed a civil fraud [lawsuit](#) against Anaya Gems, Inc., alleging that it knowingly undervalued jewelry imports and underpaid customs duties by submitting false values. The former president of the company has [agreed](#) to pay \$415,000 to settle claims based on his conduct.

TWIST TIES

The Department of Commerce has initiated an antidumping and countervailing duties (AD/CVD) investigation into twist ties from the People's Republic of China. CSMS [#43434201](#) (July 21, 2020).

INBOUND EXPRESS MAIL FEES

CBP has published an Interim Final Rule that implements new inbound express mail service fees that are collected by the U.S. Postal Service (with 50% being remitted to CBP). In addition, formal entries may be required and Merchandise Processing Fees charged on inbound items that are formally entered. Comments must be received by October 5, 2020. 85 Fed. Reg. [47018](#) (Aug. 4, 2020).

MISC. TRAFF BILL (MTB)

It is anticipated that the MTB will not be renewed by its expiration date on December 31, 2020. Clients should consider their import strategy. FTZ status should be considered for rapid action.

WASHING MACHINES

The ITC has announced an investigation into whether to extend Section 201 safeguard duties on large residential washers. Requests to participate in the investigation are due September 2. The ITC will hold hearings on November 5. 85 Fed. Reg. [48724](#) (Aug. 12, 2020).

LIBYA SANCTIONS

On August 6, OFAC [announced](#) it was adding several individuals and a company to its Specially Designated Nationals (SDN) List for smuggling drugs and other contraband through Libya.

EMBASSY EMPLOYEE FINED

OFAC announced on August 10 that it had reached a [settlement agreement](#) with a U.S. employee of the U.S. Embassy in Colombia. According to OFAC, the employee engaged in 24 transactions with an entity or person on the SDN List who was listed pursuant to the Narcotics Kingpin Sanctions

decisions.

EXECUTIVES ARRESTED

The Justice Department (DOJ) [announced](#) on August 6 that it had arrested the President of America Techma Inc. (ATI) and one of its employees for exporting controlled electronic devices to China and Hong Kong without the required licenses.

September 14, 2020. Contact [Brian Murphy](#) with questions or for assistance with comments. 85 Fed. Reg. [49472](#) (Aug. 13, 2020).

HARMONICS INVESTIGATION

Harmonics, a U.S. tech company, announced in an [August 4 SEC filing](#) that it is being investigated by OFAC following its acquisition of a French company, Thomson Video Networks (TVN). OFAC is allegedly investigating possible sales to Iran by TVN following the acquisition.

Regulations. The employee agreed to pay \$5,000.

FTZ STATS FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 08/15/2020

Approved Currently
Authorized
Zones 294 276
Subzones 854 700
[Pending](#)
Zones 3
Subzones 12
Misc. 44

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