



CHINA FORCED LABOR WROs

On September 14, CBP [issued](#) five Withhold Release Orders (WROs) on products from China's Xinjiang Uyghur Autonomous Region. The WROs direct CBP to withhold release of: hair products from a specific industrial park, apparel from two producers, cotton produced by Xinjiang Junggar Cotton and Linen Co., computer parts made by Hefei Info Technology Co., and all products made at the Lop County No. 4 Vocational Skills Education and Training Center. CBP is still considering broader WROs on cotton, textiles, and tomatoes from the region. Contact [Brian Murphy](#) or [Ryan Thornton](#) with questions.

HONG KONG MARKING CHANGES

CBP has announced an additional 45-day transition period to November 9 for marking Hong Kong-origin products as China origin pursuant to Presidential Executive Order 13936. Contact [Brian Murphy](#) or [Sean Murray](#) with questions. CSMS #43729326 (Aug. 21, 2020).

TIKTOK/WECHAT

The Commerce Department is facing a September 20 deadline for clarifying the transactions covered by President Trump's Executive Orders on TikTok and WeChat. Companies engaging in any transactions involving the companies owning the software apps should be preparing for the potential impact. Contact [Sean Murray](#) with questions.

CHINA RETALIATION

In retaliation for U.S. restrictions on Chinese diplomats in the United States, the Chinese government [indicated](#) on September 4 it was imposing restrictions on U.S. diplomats in China and Hong Kong. U.S. diplomats may not meet with students or educational institutions, visit research laboratories or local government facilities, or host U.S. cultural events outside the embassy compound involving more than 50 people without prior approval. The Chinese government also wants a list of social media accounts held by U.S. diplomats in China.

STEEL IMPORT LICENSING

The Commerce Department has published a Final Rule making significant changes to the current steel import licensing program effective October 13, 2020. Importers will be required to identify not only the country of origin, but also the country where steel used in the manufacture of the imported product was "melted and poured." The scope of

FALL 2020 TRAINING SEMINARS

Due to COVID-19, our fall training seminars will be conducted by webinar only. These webinars will consist of three (3) days with three (3) hours of training each day covering a number of new subjects.

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

You can still sign up for next week's FTZ 201. 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.

IMPORT/EXPORT DATA

Clients are encouraged to review import/export records to validate compliance and address identified concerns such as the application of Section 232 and 301 trade remedies and COVID-19 related supply chain impacts. The firm has developed proprietary software to organize and review CBP and Census AES data and can assist with ACE reports. Contact [Marshall Miller](#) with questions.

CTPAT

In comments at the CBP Virtual Trade Week on September 9, CBP CTPAT Director Manuel Garza indicated that there are currently about 11,400 CTPAT members covering approximately 53.4% of U.S. imports by value, but since January more than 100 firms have withdrawn primarily for financial or supply chain reasons. CBP has also removed 138 companies for failure to respond to agency validation requests and suspended 52 companies. Contact [Sean Murray](#) with questions.

CANADA ALUMINUM

The USTR [announced](#) on September 15 that it is ending the Section 232 10% additional tariff on Canadian non-alloyed unwrought aluminum, retroactive to September 1. The USTR announcement includes terms for reinstating the additional tariff retroactively based on increases in monthly import volume.

US/EU TRADE AGREEMENT

On August 21, the U.S. and EU announced an [agreement](#) on a limited package of tariff reductions. Most unusually, the only duty-free reductions on U.S. exports to the EU are live and frozen lobster products. The U.S. will

WTO ON US 301 DUTIES

A World Trade Organization panel has issued a [report](#) that the U.S. Section 301 tariffs on Chinese goods violate WTO rules. This report is unlikely to result in any short-term changes. The U.S. is likely to appeal and the WTO appeals process is currently non-functioning over U.S. complaints and refusal to appoint new members. [WT/DS543/R](#) (Sept. 15, 2020).

SECTION 301 EXCLUSIONS

· On August 21, 2020, the U.S. Trade Representative (USTR) announced two new China Section 301 List 3 product exclusions covering certain wallets and a chemical mixture containing N,N-dimethyltetradecan-1-amine. These List 3 product exclusions are applicable to merchandise imported between September 24, 2018 and August 7, 2020. 85 Fed. Reg. [52188](#) (Aug. 24, 2020).

· On August 31, 2020, the USTR announced the extension of eighty-seven (87) China Section 301 List 4A product exclusions set to expire on September 1, 2020. These List 4A product exclusions will now expire on December 31, 2020. 85 Fed. Reg. [54616](#) (Sept. 2, 2020).

CBP FTZ E-214 PHASE II

E-214 Phase II Release II deployment is scheduled for September 26, 2020. The changes will include posted admission correction requests, replace requests, merchandise zone status changes, canceling PTTs, notification messages and an expanded zone ID which will not be immediately available. Contact [Marshall Miller](#) or [Linda King](#) with questions. CSMS #43781802 (Aug. 26, 2020).

FTZ MANAGEMENT

We have established a new structure for assisting clients in developing Standard Operating Procedures for foreign-trade zone management. These very focused and pithy SOPs describing daily activity are the best way to ensure compliance. Contact [Marshall Miller](#) for more information.

FWS ACE MESSAGE SET DELAY

The U.S. Fish and Wildlife Service (FWS) has delayed the implementation of its Automated Commercial Environment (ACE) message set. Enforcement of mandatory submission is expected in January 2021. CSMS #43988931 (Sept. 8, 2020).

products covered is expanded to include all steel products subject to Section 232 tariffs, and a low-value license may be obtained if the total value on a Customs entry is less than \$5,000. Clients importing steel products should carefully review the new requirements prior to implementation. Contact [Brian Murphy](#) with questions. 8 5 [Fed. Reg. 56162](#) (Sept. 11, 2020).

FEDEX v. BIS

The U.S. District Court for the District of Columbia has [dismissed](#) a complaint filed by FedEx alleging that the export controls in the Export Administration Regulations (EAR) violate the Due Process Clause of the 5th Amendment, exceed the agency's delegated authority, and place such onerous restrictions on its export shipment operations that it must either cease certain shipments or risk enforcement action. The court found that the EAR satisfies the "rational basis" standard and carriers like FedEx have the institutional knowledge and scale to apply the EAR. [Federal Express Corp. v. U.S.](#), Civil Action No. 19-1840 (Sept. 10, 2020).

CBTPA & GSP EXPIRATION

The Caribbean Basin Trade Partnership Act (CBTPA) is [scheduled](#) to expire on September 30, while the Generalized System of Preferences (GSP) expires on December 31. In a September 10 House Ways & Means trade subcommittee meeting, bipartisan support was shown for CBTPA renewal, but it may be linked to GSP renewal. Companies should be looking at expediting shipments prior to expiration and other options.

SANCTIONS & ACQUISITIONS

Curtis Wright indicated in a recent Securities and Exchange Commission ([SEC](#)) [filing](#) that it may have unintentionally violated the Office of Foreign Assets Control (OFAC) Ukrainian and Russian sanctions after one of its long-time customers was acquired by a sanctioned entity. Curtis Wright management was not aware of the acquisition and continued to do business with the now sanctioned company.

NORTH KOREAN PENALTY

The Department of Justice (DOJ) [announced](#) on August 31 that a British Virgin Island company, Yang Ban, had agreed to plead guilty for its role in a scheme to ship goods to North Korea and collect payment through the U.S. financial system. Yang Ban will pay a penalty of \$673,000.

CAFTA-DR

USTR has published a Notice of changes to the HTSUS, effective November 1, 2020, to give effect to Presidential Proclamations 9555 and 9687 on the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR). 85 [Fed. Reg. 55059](#) (Sept. 3, 2020).

BIS IRAN PENALTY

The Bureau of Industry and Security (BIS) has [affirmed](#) the \$30 million penalty levied against Nordic Maritime Pte. Ltd. for its role in exporting seismic equipment to Iran, then lying about it to BIS investigators. Nordic was also placed on BIS's Denied Parties List.

products covered by 50% of a range of EU products, including prepared meals, certain crystal glassware, surface preparations, propellant powders, cigarette lighters, and lighter parts. The tariff reductions are retroactive to August 1, 2020.

SECTION 321 DE MINIMIS

CBP has [submitted](#) to the Office of Management and Budget a Proposed Rule to except merchandise subject to Section 301 duties from the Customs de minimis entry exemption.

DRAWBACK FRAUD

On August 25, the U.S. Attorney's Office for the Northern District of California [announced](#) indictments against five persons for attempting to defraud the U.S. out of as much as \$40 million dollars by submitting false drawback claims.

CARL ZEISS FINED

Carl Zeiss SBE LLC was [fined](#) \$55,000 by the BIS for shipping rifle scopes to Canada without the required BIS license.

MONEY LAUNDERING

Two U.S. citizens and a Pakistani national were [charged](#) with violating the International Emergency Economic Powers Act (IEEPA) for transferring U.S. currency on behalf of the Supreme Ruler of Iran, Ali Khamenei. The currency was being transferred to Iran via Iraq and collected as a religious tax. If convicted, the trio face up to 20 years in prison.

IRAN AIR

BIS has [announced](#) it is placing three Indonesian companies and three Indonesians on its [temporary denial list](#) for allegedly engaging in a procurement scheme to repair and provide U.S. origin aircraft parts to Mahan Air of Iran. The period is for 180 days, but could be renewed.

OFAC has [placed](#) two United Arab Emirates (UAE) entities and an individual on the Specially Designated Nationals (SDN) List for attempting to obtain U.S. aircraft parts for Mahan Air, which is also on the SDN List.

IRANIAN OIL

The Department of Justice (DOJ) has [indicted](#) five persons in the U.S. for conspiring to sell Iranian oil to China. According to the DOJ, they planned to buy Iranian oil and sell it to a Chinese refinery through a series of front companies and bribes to hide its origin.

YEAR IN TRADE 2019

The U.S. International Trade Commission has released its [Year in Trade 2019](#), which is an annual review of developments regarding the administration of U.S. trade laws and agreements. Clients are encouraged to review this highly detailed and informative publication.

PROFESSOR ARRESTED

Mr. Guan Lei, a Chinese professor at UCLA, has been [arrested](#) for destroying evidence after he was caught trying to throw out his computer hard drive. Mr. Lei was under DOJ investigation for espionage at the time of his arrest.

PHYTOSANITARY CERTS

On September 26, CBP will deploy functionality in ACE for the electronic Animal and Plant Health Inspection Service (APHIS) phytosanitary certificates (e-Phyto). CSMS [#43961085](#) (Sept. 4, 2020).

CCL UPDATES

The Bureau of Industry and Security (BIS) has updated the Commerce Control List (CCL) to reflect changes agreed to by the multi-lateral Wassenaar Arrangement. The changes impact every CCL Category except Category 4. A total of 28 Export Control Classification Numbers (ECCN) were revised, license exceptions were revised for 4 ECCNs, technical changes were made to 8 ECCNs, and one new ECCN was added for masks and reticles used for sensors. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions. 8 5 [Fed. Reg. 56294](#) (Sept. 11, 2020).

USMCA CORRECTIONS BILL

The USMCA Technical Corrections Bill remains in limbo. It is to correct errors or oversights in the USMCA legislation, including Merchandise Processing Fee refunds on post-entry USMCA claims and the origin of items produced in a foreign-trade zones for USMCA purposes. While negotiations continue, it is expected that the Technical Corrections Bill will ultimately be implemented.

FOUNDATIONAL TECHNOLOGIES

On August 27, the BIS published a Proposed Rule requesting input on the types of technology the BIS needs to further control. BIS wants to prevent emerging technologies from leaking to non-U.S. entities. Comments are due by October 26. 85 [Fed. Reg. 52934](#) (Aug. 27, 2020).

The Treasury Department has issued a Final Rule, effective October 15, 2020, that modifies requirements for mandatory declarations to the Committee on Foreign Investment in the United States (CFIUS) for foreign investments in U.S. businesses that produce, design, test, or develop critical technologies that are subject to State, Commerce, Energy, or Nuclear Regulatory Commission licensing or authorization. 8 5 [Fed. Reg. 57124](#) (Sept. 15, 2020).

CHINESE MILITARY ISLANDS

BIS has placed 24 Chinese entities on the Entity List for their involvement in building artificial islands in the South China Sea. Other entities and individuals from several countries were added at the same time for violations ranging from shipping U.S. goods to Iran, lying to BIS, and contributing to Russia's biological weapons program. 85 [Fed. Reg. 52898](#) (Aug. 27, 2020).

NORTH KOREA ADVISORY

OFAC has issued an [advisory](#) to industry relating to North Korea's attempts to obtain Western products and technology to boost its ballistic missile capabilities. The advisory identifies some of the entities and actions North Korea utilizes to avoid sanctions.

DDTC FORM DS-6004

SECTION 232 QUOTAS

On August 28, in light of changed market conditions, President Trump proclaimed new restrictions on the quota amount for imports of Brazilian steel into the United States. 85 Fed. Reg. [54877](#) (Sept. 2, 2020).

CBP has announced the Q4 2020 absolute quota limits for Section 232 steel and aluminum from Argentina, Brazil, and South Korea. CSMS #[43956557](#) (Sept 4, 2020).

SUBSTANTIAL TRANSFORMATION

The Court of International Trade (CIT) has denied an importer's request for a preliminary injunction over the origin marking of power supplies and surge protectors as either Chinese or Philippine origin. In denying the request, the CIT cited different interpretations of the substantial transformation standard in [Energizer Battery Inc. v. U.S.](#) (CIT 2016) and [Acertis Health LLC v. U.S.](#) (Fed. Cir. 2020). Contact [Sean Murray](#) with questions. [Cyber Power Systems \(USA\) Inc. v. U.S.](#), CIT Slip Op. No. [20-130](#) (Sept. 2, 2020).

ICC PERSONNEL SANCTIONED

OFAC has placed two officials of the International Criminal Court (ICC) on its [Specially Designated Nationals](#) (SDN) List for investigating alleged U.S. war crimes in Afghanistan. This is the first time ICC employees were specifically added to the SDN List since the Trump administration authorized the imposition of sanctions against the ICC in June.

BUY AMERICAN CHANGES

The Department of Defense (DoD), General Services Administration (GSA), and NASA have issued a Proposed Rule which would increase the domestic content requirement for iron and steel end products to 95% and for other products to more than 55% of the cost of all components, and increase the Buy American price preference for domestic end products and construction material in non-DoD procurement. Comments are due by November 13. 85 Fed. Reg. [56558](#) (Sept. 14, 2020).

DELAWARE ENTITIES

OFAC and the Delaware Department of Justice have [announced](#) an agreement to increase communication and cooperation in areas of common interest, including cross training and supporting litigation in subject matters regulated by OFAC.

SOFTWARE CUSTOMS VALUE

A European court has [ruled](#) that software designed in the EU and provided for free to the manufacturer of control units that were subsequently imported into the EU are assists that must be added to the transaction value of the control units. The ruling appears to depart from the GATT Software Decision, so it should be closely followed. Contact [Sean Murray](#) or [Tom Lobred](#) with questions.

OFAC PENALTY INCREASE

OFAC has issued an Interim Final Rule increasing the penalty amounts for failing to keep certain records and reporting requirements. The penalties will rise from \$20,000 to \$23,765 and are in addition to other penalties that could be imposed. 85 Fed. Reg. [54911](#) (Sept. 3, 2020).

CYPRUS

The Directorate of Defense Trade Controls (DDTC) has [announced](#) that on October 1 it will waive for one year the policy of denial in the International Traffic in Arms Regulations (ITAR) to allow purchases of non-lethal defense articles and services on the U.S. Munitions List (USML) for the Republic of Cyprus. Licenses will be considered on a case-by-case basis.

TECHNOLOGY SALES

The Department of Justice (DOJ) [announced](#) that it has arrested four people for taking and selling controlled drawings and technology to foreign parties. Many of the drawings and technology were controlled by the International Traffic in Arms Regulations (ITAR). If convicted, they face up to 10 years in prison. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions.

FALSE MADE IN USA CLAIMS

A New Jersey federal district court found that an importer is owed [damages](#) by a competitor who falsely claimed its product was "Made in USA." [Newborn Bros. v. Albion Engineering Co.](#), D.N.J. 12-2999 (Aug. 25, 2020).

RPS SCREENING

The Office of Foreign Assets Control (OFAC) has announced a [Settlement Agreement](#) under which Deutsche Bank Trust Company Americas will pay \$583,100 in penalties related to processing payments in violation of the Ukraine/Russian sanctions. OFAC alleged that Deutsche Bank should have discovered the payments, but its screening software was set so tightly that only exact matches were further reviewed.

AFRICAN CONTINENT FTA

54 of the 55 nations on the entire African continent have signed a free trade [agreement](#) that is supposed to begin staged implementation on January 1, 2021, with full implementation by 2030. Tariffs remain a substantial portion of government revenue in most African countries. South Africa and Nigeria are expected to eliminate 90% of their tariff categories over a five-year period.

The Directorate of Defense Trade Controls (DDTC) is seeking comments on its DS-6004 Form, which is used for a change to the end use, end user, or destination that appears on a license. Comments are due by November 2. 85 Fed. Reg. [54613](#) (Sept. 2, 2020).

UK-JAPAN FTA

The UK and Japan have reached a preliminary [agreement](#) in principle on a free trade agreement. The agreement is expected to be finalized in October. This is the first UK-only free trade agreement since BREXIT. Not only will it provide 99% of UK exports to Japan with a zero-duty rate, but is reportedly a first step for the UK joining the TransPacific Partnership. It will be interesting to see the U.S. reaction as the negotiations between the US and the UK for a similar FTA agreement have stalled primarily over agricultural concerns.

CBP RECONCILIATION

CBP has posted a detailed and revised [Reconciliation External Guidance](#) (Version 2.0) document. All clients utilizing the Reconciliation program should review this document carefully. Contact [Sean Murray](#) with questions.

IRAN TURBINES

The Department of Justice (DOJ) has [announced](#) that a UK national, Colin Fisher, pled guilty for attempting to ship turbines from Florida to Iran via the United Arab Emirates. Mr. Fisher faces up to 20 years in prison. Sentencing is set for November. His co-conspirator, the president and CEO of Turbine Resources International, LLC, is currently serving a 40-month prison term.

UNDER VALUATION

Ambiance USA, Inc., Paraline USA, Inc., and their owner Sang Bum Noh have pleaded [guilty](#) and agreed to pay nearly \$118 million dollars for a variety of charges involving the under-valuation of imports and tax offenses.

FTZ STATS

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 09/15/2020

	Approved	Currently Authorized
Zones	294	276
Subzones	855	701
Pending		
Zones	3	
Subzones	11	
Misc.	42	

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