



EU RETALIATORY DUTIES

On November 10, the European Union (EU) [implemented](#) retaliatory duties of 15% and 25% on specified U.S. products as a result of the longstanding Airbus-Boeing World Trade Organization (WTO) dispute. U.S.-origin aircraft, but not aircraft parts, are subject to an additional 15% duty. A variety of U.S.-origin products, including certain tractors, motorcycle and bicycle parts, seafood, cheese, distilled spirits, vegetable fats, and molasses are now subject to an additional 25% duty.

FTZ OPERATOR BOND GUIDANCE

CBP has issued interim guidance to the Ports of Entry regarding the computation and annual sufficiency reviews of Foreign Trade Zone (FTZ) Operator Bonds. CSMS [#44578062](#) (Oct. 28, 2020).

- Ports may only require a \$50,000 FTZ Operator Bond for each initial FTZ activated location. We believe the language should be interpreted to apply only to a 3PL with no business history.
- The impact of the CSMS on new FTZs with a clear business history and on existing FTZ Operator Bond amounts is unclear.
- Contact [Linda King](#) or [Marshall Miller](#) before making any FTZ bond changes.

CANADA SECTION 232 TARIFFS

President Trump issued a [proclamation](#) on October 27 that ended the Section 232 tariffs on aluminum from Canada. The duty-free treatment is retroactive to Sept 1. Importers may file Post Summary Corrections (PSCs) to correct entries filed from September 1 through October 27.

SECTION 232 SETTLEMENT

The U.S. Court of International Trade (CIT) has approved a stipulated [judgment](#) resolving a lawsuit by Borusan Mannesman Pipe U.S. that alleged improper denial of Section 232 product exclusion requests. The judgement ordered CBP to reliquidate some entries covered by the Section 232 tariff exclusion requests. [Borusan Mannesman Pipe U.S. Inc. v. U.S.](#), CIT Court No. [20-00012](#) (Oct. 15, 2020).

U.S.-BRAZIL TRADE AGREEMENT

The U.S. and Brazil signed a trade facilitation [agreement](#) on October 19. The agreement is similar to the USMCA trade facilitation chapter and requires Brazil to issue and accept electronic phytosanitary certifications,

As you prepare goals and budgets for 2021, consider the following:

IMPORT/EXPORT YEAR-END

- Update Import/Export Manual
- Review Import Bond amounts to confirm they are sufficient to cover Trade Remedy Tariffs
- Issue and obtain blanket FTA Certificates of Origin before Jan. 1
- USMCA compliance
- CTPAT Review – New Minimum Security Requirements
- Section 232 (Steel/Aluminum) Impact Analysis/New Product Exclusion Requests
- Section 301 (China, EU) Impact Analysis/Product Exclusion Expirations
- Export controls
 - Embargoed/sanctioned country review
 - Increased China restrictions
- 2021 Budget
 - HTS, Value, Origin, Section 201/232/301 Validation
 - 2020 Import/Export Records Review
 - Miller & Co. Remote Audit/Assessment
 - 2021 Import/Export Training
 - Internal experts
 - Business units
 - Miller & Co. webinars

FTZ YEAR-END CHECKLIST

- Update FTZ Manual
- FTZ Scope of Authority/Land/Buildings Review
- FTZ Yearly Blanket CBPF 216 Renewal.
- Review FTZ Bond amount
- CBP FTZ Annual Systems/Reconciliation Review and Certification letter (with any necessary CBPF 214 or Customs Entry).
- FTZ Board Annual Report.
- Assess new FTZ savings opportunities for 2021
- 2021 Budget
 - HTS, Value, Origin, Section 201/232/301 Validation
 - 2020 FTZ Records Review
 - Miller & Co. Remote Audit/Assessment
 - FTZ Training
 - Miller & Co. webinars

GSP REVIEW & EXPIRATION

- The Generalized System of Preferences (GSP) expires on

301 PRODUCT EXCLUSIONS

By December 31, 2020, five hundred and fifteen (515) China Section 301 Lists 1, 2, 3, and 4A product exclusions will expire. These 515 product exclusions represent 96.4% of the China Section 301 product exclusions in effect. The U.S. Trade Representative (USTR) has not outlined a process for extending these product exclusions. A small number of List 1 product exclusions will remain in effect until March 25, or April 18, 2021. Contact [Brian Murphy](#), [Sean Murray](#), or [Ryan Thornton](#) with questions and [Ryan Thornton](#) for our China Section 301 product exclusion spreadsheet.

CHINESE SECURITIES

On November 12, President Trump issued an [Executive Order](#) prohibiting U.S. persons from holding securities in Chinese companies that support the Chinese military. The new rules go into effect on January 11, 2021. More details are still to be issued.

SECTION 301 CHINA LITIGATION

The Justice Department (DOJ) filed a [motion](#) on October 19 requesting that the U.S. Court of International Trade (CIT) “automatically stay” all but the lead HMTX Industries-Jasco Products cases, adopt case management process, and make HMTX the test case. Contact [Brian Murphy](#), [Sean Murray](#), or [Ryan Thornton](#) with questions.

CHINA PHASE ONE AGREEMENT

The Office of the U.S. Trade Representative (USTR) and the U.S. Department of Agriculture (USDA) have issued a [report](#) emphasizing China’s progress in implementing the agricultural provisions in the U.S.-China Phase One Economic and Trade Agreement. The report states that China has implemented at least 50 of its 57 technical commitments under the Agreement. China has purchased over \$23 billion in agricultural products (corn, soybeans, sorghum, pork, and beef), which is approximately 71% of its target.

RCEP TRADE AGREEMENT

On November 15, the Regional Compliance Economic Partnership (RCEP) was signed by 15 Asian countries. It is the largest regional free trade agreement, encompassing 2.2 billion people (30% of the world’s population) and 30% of global GDP. The FTA focuses on Customs duties, rules of origin, and standards. It is purportedly

International Air Transport Association (IATA) electronic air waybills, and electronic cargo XML messaging within one year, and to develop an online Customs declaration process. Ethanol, sugar, wheat, and steel are among the issues to be addressed in the future.

BIS MEU CONTROLS

The Bureau of Industry and Security (BIS) has issued a Final Rule that amends its license review policy for products controlled for National Security (NS) reasons for Russia, Venezuela, and China. Under the new policy, licenses will be evaluated to determine if granting the license will make a material contribution to weapons system capabilities. Exports for civil end uses and users will have a presumption of approval. Contact [Sean Murray](#) with questions. 85 Fed. Reg. [68448](#) (Oct. 29, 2020).

IRAN BUSINESSMEN SUE OFAC

Two Iranian businessmen have filed suit in U.S. federal district court alleging the Office of Foreign Assets Control (OFAC) violated constitutional norms and failed to follow due process when it sanctioned them in September. The two men were [sanctioned](#) for being shareholders of Mammut Industrial Group, which OFAC said provides support to Iran's ballistic missile programs.

IRAN SANCTIONS

- On October 26 OFAC issued [General License \(GL\) 8A](#), which allows some transactions involving the Central Bank of Iran in support of humanitarian aid.
- OFAC has [added](#) several individuals and entities to its Specially Designated Nationals (SDN) List and revised frequently asked questions (FAQs) [821](#), [822](#), [823](#), [825](#), [828](#), and [844](#).

BIS PROPOSED RULE

The Bureau of Industry and Security (BIS) has issued a Proposed Rule that would impose additional controls on software controlled under Export Control Classification Number (ECCN) 2B352 that could be exploited to develop biological weapons without the need to acquire controlled genetic elements or organisms. Comments are due by December 31, 2020. 85 Fed. Reg. [71012](#) (Nov. 6, 2020).

VIETNAMESE TIRES/CURRENCY

The Commerce Department has [issued](#) preliminary countervailing duties of 6.23% to 10.08% on imported light vehicle tires from Vietnam based on undervalued Vietnamese currency. A final determination is due by April 30, 2021.

SMALL ENGINES AD/CVD

The Commerce Department has set new antidumping cash deposit requirements for imports of certain vertical shaft engines from China after a preliminary determination in its AD and CVD investigations. The changes took effect Oct. 21, but with AD duty cash deposits retroactive to July 23 for some Chinese firms. The AD rate ranges up to 541.75%. A final ruling will be issued within 120 days of publication. 85 Fed. Reg. [66932](#) (Oct. 21, 2020).

SUDAN EXPORTS

On October 23, the White House [announced](#) that it is removing Sudan

not as comprehensive as the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (formerly TPP). The U.S. is not a party to the agreement. It is expected to take effect within two years after country ratification.

• FTZ firms with GSP material have a complex decision. To maintain the potential for retroactive refunds after December 31, the "A" special program indicator should continue to be flagged. However, GSP renewal is not certain. The use of PF status and an election date prior to December 31 does not mean that the CBP ACE system will allow duty free imports after December 31. The GSP law requires both importation (FTZ admission) and entry when the law is in effect to qualify for duty free entry. CBP HQ previously ruled that PF status is precluded. Clients should consider timing for on-hand inventory and splitting new GSP material at receipt and filing Customs entries prior to December 31. Contact [Marshall Miller](#) with questions.

• The Office of the United States Trade Representative (USTR) has announced the results of the 2020 Annual GSP Review, removing some products and country combinations, continuing Georgia, Uzbekistan, and Indonesia as beneficiaries, and changing some product eligibility related to competitive need limitations (CNLs). 85 Fed. Reg. [71391](#) (Nov. 9, 2020).

• CBP has issued [guidance](#) on the GSP changes. CSMS #44639601 (Oct. 30, 2020).

THAILAND GSP RESTRICTIONS

Thailand was the top GSP beneficiary in 2019, but approximately two-thirds of Thai products have been removed from GSP in 2020 over a dispute involving market access for U.S. pork products. The USTR has released a full [list](#) of products and its [rationale](#) for restricting access to GSP benefits. The most affected Thai products are certain auto parts, plastic glasses frames, chemicals, and latex mattresses. The changes go into effect on December 30, 2020. 85 Fed. Reg. [70027](#) (Nov. 4, 2020).

BIS LICENSE EXTENSIONS

The Bureau of Industry and Security (BIS) [announced](#) on October 16 that it would allow exporters to request a six months extension of any license that is scheduled to expire before December 31, 2020.

E-COMMERCE GUIDES

CBP has [released](#) an e-Commerce Counterfeit Awareness Guide to help importers comply with import laws and provide genuine products for their customers. It has also [released](#) an e-Commerce Counterfeit Awareness Guide to help consumers understand their online shopping responsibilities.

DISTILLATION MODULES

CBP has proposed the revocation of a ruling that classified a distillation refining module for a methanol plant in HTSUS 8419.89.9585 (4.2%) as "other" machinery and its classification in HTSUS 8419.60.50 (Free) as machinery for liquefying air or other gases. Comments are due by Nov. 27. 85 Fed. Reg. [66932](#) (Oct. 21, 2020).

FORCED LABOR UPDATE

- CBP Withhold Release Orders and Findings [Chart](#) as of October 22, 2020.
- GAO Forced Labor Imports [Report](#) – October 2020.
- CBP Virtual Trade Week [Presentation](#) on Forced Labor – YouTube Video.

STEVIA FORCED LABOR

CBP has issued its first Forced Labor finding since 1996, finding that stevia extracts and derivatives mined, produced, or manufactured in China by the Inner Mongolia Hengzheng Group Baoanzhao Agriculture, Industry and Trade Co., Ltd. with the use of forced labor are likely being imported into the U.S. 85 Fed. Reg. [66574](#) (Oct. 20, 2020).

MONKEY FORCED LABOR

CNN has reported that People for the Ethical Treatment of Animals (PETA) investigators have [accused](#) Theppadungporn Coconut Company (Thailand) of cruelty to monkeys at farms and food production facilities. PETA says the monkeys were enslaved, exploited, and abused. As a result, Costco has cut ties with Chaokoh coconut milk and stated that it will resume business with the company only after proper harvesting policies have been implemented.

HONG KONG ORIGIN LABEL RULE

- The Trump Administration's new labeling policy went into effect on November 9, requiring the use of "Made in China" labels for Hong Kong products imported into the U.S. 85 Fed. Reg. [48551](#) (Aug. 11, 2020).
- Hong Kong has initiated a dispute resolution proceeding at the WTO over the changed origin requirement.

HONG KONG SANCTIONS

On November 9 the State Department [sanctioned](#) four Chinese and Hong Kong officials involved in implementing Beijing's so-called national security law. These individuals will be barred from travelling to the U.S. and their assets within U.S. jurisdiction or in the possession or control of U.S. persons will be blocked.

2019 FTZ BOARD REPORT

The FTZ Board [annual report](#) should be reviewed by all involved in the FTZ program. There were 193 active FTZ projects with 348 production operations involving 3,300 firms employing 460,000 persons in FTZ status. Merchandise receipts were \$767 billion, compared to \$794 billion in 2018, a decrease of 3.4%. Foreign status merchandise received was \$279.4 billion, as compared to \$296.7 billion in 2018. This represented 11.8% of all U.S. imports. Exports were \$111 billion, as compared to \$113 billion in 2018, representing 6.7% of all U.S. exports. Warehouse activity increased

from the list of State Sponsors of Terrorism. Once Sudan is removed from this list, items on the Commerce Control List (CCL) controlled only for Anti-Terrorism (AT) purposes will no longer require an export license for export to Sudan.

IRAN FINE FOR SUBSIDIARY ACTS

On October 20, the Office of Foreign Assets Control (OFAC) [announced](#) that it had reached a \$4.1 million [settlement agreement](#) with Berkshire Hathaway (BH). BH voluntarily disclosed that a Turkish subsidiary had sold tools to a Turkish distributor with knowledge that they would be sold to other distributors in Iran who in turn sold them to other entities, including the Government of Iran.

FACE MASKS ORIGIN

CBP has ruled that face masks made in Ethiopia from fabric and other materials sourced from Thailand are products of Thailand and consequently not eligible for preferential treatment under the African Growth and Opportunity Act (AGOA). [HQ H313043](#) (Oct. 22, 2020).

OFAC VENEZUELA SANCTIONS

OFAC has published the names of Venezuelan entities and aircraft that have been placed on the Specially Designated Nationals (SDN) List. Venezuelan state-owned airline Consorcio Venezolano de Industrias Aeronauticas y Servicios Aereos, S.A. (CONVIASA) and its aircraft fleet are subject to sanctions as part of the Government of Venezuela, pursuant to Executive Order (E.O.) [13884](#). 85 [Fed. Reg. 69684](#) (Nov. 3, 2020).

EMERGING TECHNOLOGIES

- On October 15, the White House released its [National Strategy for Critical and Emerging Technologies](#). Among the emerging technologies deemed critical are "artificial intelligence, energy, quantum information science, communication and networking technologies, semiconductors, military, and space technologies."
- The Department of Commerce has also released its [plans](#) for meeting the strategy.

RUSSIAN SMUGGLERS

The Justice Department has [announced](#) that it charged ten persons - many of which were Aeroflot employees - with smuggling electronic products, some stolen, from the U.S. to Russia. The employees are alleged to have smuggled millions of dollars of Apple electronics without required Automated Export System (AES) filings.

SINGLE WINDOW CONNECTIVITY

CBP and Singapore Customs have [signed](#) a Letter of Intent to explore single window connectivity between Singapore's Networked Trade Platform (NTP) and the U.S. Automated Commercial Environment (ACE). The agreement formalizes a commitment to share trade data and explore the possible connection of the two countries' systems for trade facilitation.

CUBAN REMITTANCES

OFAC has announced that it is further restricting remittances involving entities on the Cuban Restricted List, effective Nov. 27. OFAC also updated frequently asked questions (FAQs) [72](#), [717](#), [728](#), [732](#), [733](#), [734](#), [756](#), [759](#), [796](#), [797](#), and added question [852](#). 85 [Fed. Reg. 67988](#) (Oct. 27, 2020).

IRAN VIOLATIONS

The Justice Department [announced](#) on November 10 that it has charged a Taiwanese resident and two companies with attempting to circumvent the Iran sanctions regulations by helping an Iranian research company obtain U.S. goods and cybersecurity software.

KORUS FTA CERTS

CBP has ruled that the Textile and Apparel Center of Excellence and Expertise (CEE) erroneously denied a Korea-U.S. Free Trade Agreement (KORUS FTA) claim and required submission of a new certificate of origin where the broker made handwritten corrections to the HTS classification on the invoice and FTA COO in a post-importation claim. HQ H304675 (July 23, 2020).

FTZ E-214s

As noted last month in Briefings, the e-214 test program was deployed on September 26, 2020. There continue to be issues with effective e-214 Admission Modifications. Contact [Linda King](#) or [Marshall Miller](#) with questions.

slightly, most notably in consumer electronics. Petroleum refining continued as the largest industry sector, but merchandise received for petroleum refining decreased as firms increased U.S. sourcing. The pharmaceutical industry significantly increased its FTZ activity, second to petroleum and above motor vehicle production.

SMALL PACKAGE SEIZURES

The Government Accountability Office (GAO) recommended in a report on CBP efforts to combat counterfeit goods in small package shipments that CBP speed enforcement by issuing Seizure Notices concurrent with Forfeiture Notices so these low value shipments can be adjudicated within 30-days of seizure. CBP has stated that it will implement a policy to streamline enforcement for seized merchandise valued under \$2,500 by January 2021. [GAO-20-692](#) (Sept. 2020).

HIGH-VALUE ARTS TRADE

OFAC has issued a [sanctions advisory and guidance](#) about the risks associated with dealing in high-value works of art. The guidance urges firms to maintain a compliance program and notes that high-value works of art are "not categorically exempt" from enforcement action.

BANKS ARE NOT TOYS

CBP has proposed the revocation of multiple rulings that classified "piggy" banks as toys in HTSUS 9503.49.00 (Free) and their classification as other household articles of plastic in HTSUS 3924.90.56 (3.4%). Comments are due by November 27. 54 [Cust. B. & Dec. 32](#) (Oct. 28, 2020).

FTZ STATS

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/2020

	Approved	Currently Authorized
Zones	294	276
Subzones	857	703
Pending		
Zones	3	
Subzones	14	
Misc.	34	

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