



## 2023 CUSTOMS MOD ACT

On December 7, Senators Bill Cassidy (R-LA) and Sheldon Whitehouse (D-RI) introduced the Customs Modernization Act of 2023 (S. 3431). It is focused on enforcement and would increase U.S. Customs and Border Protection (CBP) access to data throughout the supply chain, expand activities subject to Section 1592 penalties, revise Section 1592 negligence and fraud standards, expand Section 1595a penalties, allow CBP to use mandatory advance data for enforcement purposes, expand recordkeeping requirements to e-commerce platforms, and expand data collection, detention procedures, and penalties for Section 321 de minimis shipments. A section-by-section [summary](#) has been issued. Acknowledging the enforcement focus of the bill, Sen. Cassidy's press release states that he is committed to introducing a trade facilitation bill in 2024.

## USMCA AUTO RULES

The U.S. Trade Representative (USTR) is requesting comments and has scheduled a February 7 hearing on the operation of the United States-Mexico-Canada Agreement (USMCA) regarding automotive goods, including the implementation and enforcement of USMCA automotive rules of origin. Comments and requests to testify are due by January 17. USTR must submit a report to the Senate Finance and House Ways and Means Committees by July 1. 88 Fed. Reg. [81527](#) (Nov. 22, 2023).

## CHINA CHIP CONTROLS

The Bureau of Industry and Security (BIS) has extended the comment period on the October 17 Interim Final Rules on supercomputers, advanced semi-conductors, and semi-conductor manufacturing equipment controls to January 17. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions or for assistance with comments. 88 Fed. Reg. [86821](#) (Dec. 15, 2023).

## APPLIED MATERIALS & SMIC

Applied Materials [indicated](#) in a recent SEC filing that it is being investigated for supplying China's Semiconductor Manufacturing International Corp (SMIC) with manufacturing equipment. SMIC is on the BIS Entity List.

## CHIP NOTIFICATION PROCESS

BIS has [announced](#) a new notification process for semiconductors that fall just below the parameters described in ECCN 3A090. Under the new process, a



## 2023 YEAR-END CHECKLISTS

As you close out 2023 and finalize goals and budgets for 2024, consider the following:

### Foreign-Trade Zone (FTZ)

- Review FTZ Scope of Authority/Land/Buildings
- FTZ Yearly Blanket CBPF 216 Renewal
- Review FTZ Operator Bond Amount Sufficiency
- CBP FTZ Annual Reconciliation, Systems Review, and Certification Letter (with any necessary CBPF 214 or Customs Entry)
- Review FTZ Manual for Updates
- Update Key Employee List
- Assess new FTZ Savings Opportunities for 2024

### Import/Export

- Issue and Obtain Blanket FTA Certificates of Origin before Jan. 1
- Verify End-of-Year Transfer Pricing Adjustments and Confirm Customs Value Implications
- Review Import Bond Amount Sufficiency
- Review Embargoed/Sanctioned Country Procedures and Exports
- Consider Increased China Import and Export Restrictions
- Review Forced Labor Risk
- Update Import/Export Manuals
- 2024 Training Plans

## YEAR-END DUTY REDUX

CBP has authorized Immediate Delivery (ID) procedures for merchandise to be released from December 15 through December 31. These ID procedures allow entry filers to take advantage of HTSUS changes that take effect on January 1, 2024, and include details on ACE and paper filing. CSMS [#58645181](#) (Dec. 7, 2023).

## CHINA COMMITTEE REPORT

The House Select Committee on the Chinese Communist Party (CCP) has [released](#) a report with almost 150 policy recommendations to address U.S. economic and national security issues with China. Recommendations include:

- Remove Permanent Normal Trade Relations (PNTR) (HTSUS Column 1 General) status for China and create a China-specific tariff schedule.
- Renew China-specific safeguards that

## US-EU TRADE

Facing a January 1 deadline for reapplying duties in lieu of an agreement, the Financial Times is reporting that the European Union (EU) is going to extend its trade truce with the U.S. for 15 months, until after the presidential election. The U.S. has suspended application of its additional steel and aluminum tariffs on the EU while the EU has suspended its retaliatory tariffs.

## FY 2023 FORCED LABOR

According to CBP, it [stopped](#) 4,415 shipments in Fiscal Year 2023, valued at \$1.46 billion suspected of having been made with forced labor. These are increases of 78% by value and 21% by number compared to FY 2022. 4,053 of the 4,415 shipments were stopped pursuant to the Uyghur Forced Labor Prevention Act (UFLPA).

## UFLPA ENTITY LIST

The Department of Homeland Security has [added](#) three China-based companies to the UFLPA Entity List. Products made by COFCO Sugar Holding Co. Ltd., Sichuan Jingweida Technology Group Co., Ltd., and Anhui Xinyz New Materials Co. Ltd., will be restricted from entering the U.S.

## UFLPA VALIDATION CODES

The Cargo Release Condition Codes document has been updated with new validations for detentions, including UFLPA detentions. The new error codes will be deployed in the Production environment by January 27. CSMS [#58501003](#) (Nov. 11, 2023).

## FRIENDS WITH BENEFITS

BIS has released two Final Rules and proposed changes on export controls and licensing requirements that would ease controls for U.S. allies.

- Final Rule, effective December 8, relaxing license requirements on some pathogens and toxins for certain Australia Group (AG) countries by moving them from CB1 to CB2 controls and revising Crime Controls (CC) on detection equipment and related technology and software for certain allies. 88 Fed. Reg. [85479](#) (Dec. 8, 2023).
- Final Rule, effective December 8, implementing changes to the Missile Technology Control Regime (MTCR) agreed to by MTCR member countries and expanding the use of license exceptions for MT-controlled items for certain allied countries. 88 Fed. Reg. [85487](#) (Dec. 8, 2023).
- Comments are due by February 6 on

new license exception, Notified Advanced Computing (NAC), will be available after BIS receives a notification from the manufacturer outlining the processing performance, performance density, how the product will be marketed and designed, etc.

#### HUMAN TISSUE SAMPLES

CBP has proposed the revocation of five rulings and the modification of two rulings on the classification of human tissue samples and other human body specimens. These rulings had classified the samples and specimens in several different HTSUS provisions. CBP is now proposing to classify them all in HTSUS subheading 0511.99.40 (1.1%), which provides for "other" animal products not elsewhere specified or included. Comments are due by January 12. Contact [Sean Murray](#) with questions or for assistance with comments. 57 [Cust. B. & Dec. 1](#) (Dec. 13, 2023).

#### PROCUREMENT SANCTIONS

·On November 21, BIS added four entities to the Entity List for supplying Russia and Venezuela's defense industries. On December 7, it added 42 more. The entities are located in a variety of countries including Costa Rica, Ecuador, India, Panama, Spain, Russia, Venezuela, China, Cyprus, Germany, Kazakhstan, the Netherlands, and the UAE. 88 [Fed. Reg. 80955](#) (Nov. 21, 2023) and [85095](#) (Dec. 7, 2023).

·On December 12, the Office of Foreign Assets Control (OFAC) has [sanctioned](#) over 150 individuals and entities in Europe, Asia, and the Middle East for supplying Russia's military industrial base.

#### USMCA DAIRY

A USMCA dispute panel has [upheld](#) the Canada dairy tariff-rate quota (TRQ) allocation methodology that the U.S. had argued improperly reserves TRQs for Canadian dairy processors and excludes retailers, food service operators, and importers.

#### MEDICAL FOOD

The U.S. Court of International Trade (CIT) has ruled that Nutricia North America medical food imports should be classified in Heading 2106 as "food preparations" rather than in duty-free Heading 3004 as mixed or unmixed medicaments for therapeutic and prophylactic use. Nutricia argued their medical food products are medicaments, but CIT held that HTS Chapter 30 specifically excludes all foods and beverages. [Nutricia N. Am., Inc. v. U.S.](#), CIT Slip Op. [23-170](#) (Dec. 4, 2023).

#### MADE IN USA

The Federal Trade Commission (FTC) is [accepting](#) comments on a consent agreement with ExotoUSA LLC - Old Southern Brass over multiple deceptive and false claims, including that certain products were "Made in the USA." The comment period ends January 8. 88 [Fed. Reg. 85619](#) (Dec. 8, 2023).

#### CUSTOMS BROKER EXAM

The Spring 2024 customs broker license examination has been moved to May 1. 88 [Fed. Reg. 86351](#) (Dec. 13, 2023).

proposed changes to expand use of License Exception STA. 88 [Fed. Reg. 85734](#) (Dec. 8, 2023).

·Reduce the Section 321 de minimis entry amount.

·Strengthen the UFLPA to identify factories outside of the Xinjiang region that source from Xinjiang.

·Modernize GSP to limit Chinese content.

·Strengthen export controls on technology exports.

·Pass Trade Promotion Authority ("Fast Track") and encourage sectoral agreements with trade partners on critical goods.

#### CBP AD/CVD MESSAGES

Beginning January 16, CBP is implementing cargo messaging with entry filers if it appears that an antidumping/countervailing (AD/CVD) Entry Summary has omitted companion AD or CVD case numbers or applied an improper AD/CVD case number. The messaging is informational only, but may prevent the need for further CBP action. CSMS [#58721104](#) (Dec. 14, 2023).

#### NASDAQ OFAC SETTLEMENT

OFAC has [announced](#) a settlement agreement with Nasdaq under which Nasdaq agreed to pay \$4,040,923 for its wholly-owned Nasdaq OMX Armenia subsidiary processing trades and settling payments involving a subsidiary of a state-owned Iranian bank.

#### AES REQUIREMENT UPDATE

Census has upgraded the severity of response message 26C in the Automated Export System (AES) from "informational" to "Compliance Alerts." Effective November 14, filers are being sent an [alert](#) when the declared state of origin does not match the state declared in the USPPPI's address, and filers are required to make corrections.

#### GENETIC ECCN ADVISORY

BIS has [issued](#) an Advisory Opinion on genetic element export controls under Export Control Classification Number (ECCN) 1C353.

#### STATE DEPT REWARD

The State Department has [announced](#) a reward of up to \$7 million for information leading to the arrest or conviction of Russian national Artem Aleksandrovich Uss. Uss was indicted by a U.S. federal grand jury in 2022 and has allegedly engaged in U.S. exports of military and dual-use goods to Russia and used the U.S. financial system to smuggle oil from Venezuela.

#### 2024 CBP SUMMIT

CBP will hold its 2024 Trade Facilitation and Cargo Security Summit in Philadelphia on March 26-28. [Registration](#) opens on January 10.

#### CUSTOMS UNDERVALUATION

ADCO Industries, a Dallas importer of industrial products also known as Dallco Marketing, two Chinese companies, and Dallco's owner and its customs broker, have [agreed](#) to pay \$2.5 million to settle charges they falsified the value of imported goods from China to avoid duties.

#### TIME OF ENTRY

CBP has ruled that an importer's entry pre-dated the effective date of China Section 301 List 2 duties based on the time of entry determined by Cargo Release and Entry Summary filing in proper form with the merchandise arrived within port limits with the intent to unlade as established by the Customs ACE system and supporting documents. HQ [H306804](#) (Sept. 29, 2023).

#### CUSTOMS VALUE SCHEME

Ghacham Inc., a California based wholesale clothing company, has been [ordered](#) to pay a \$4 million fine and \$6.4 million in restitution after submitting false invoices to Customs on textile imports from China over a ten year period that undervalued shipments by more than \$32 million. Ghacham is also required to create and maintain an anti-money laundering compliance and ethics program and submit to review by a third-party monitor.

#### ANIMAL FEED

Customs Headquarters has ruled that three medicinal products used in animal feeds should be classified in HTSUS Heading 2941 rather than as "animal feeds" in HTSUS Heading 2309. CBP found the antibiotic effect of the three products dominates their chemical makeup, function and purpose. HQ [H325604](#) (Aug. 21, 2023).

#### BINANCE SETTLEMENT

The Office of Foreign Assets Control (OFAC) and the Financial Crimes Enforcement Network (FinCEN) have [announced](#) historic settlements with Binance Holdings Ltd. and its affiliates for violations of sanctions regulations and anti-money laundering laws in the amounts of \$968 million and \$3.4 billion. Binance allegedly failed to report over 100,000 suspicious transactions that it processed on its virtual currency exchange platform.

#### TIMESHARE FRAUD

OFAC has [sanctioned](#) three Mexican individuals and 13 Mexican companies for their involvement in timeshare fraud led by Cartel de Jalisco Nueva Generacion (CJNG), a leading trafficker of narcotics, including fentanyl. The action was taken in coordination with the Mexican government.

#### U.S. GOVT PROCUREMENT

The U.S. Trade Representative (USTR) has published calendar year 2024 and 2025 U.S. government procurement dollar thresholds under U.S. trade agreement obligations. 88 [Fed. Reg. 85718](#) (Dec. 8, 2023).

FTZ STATISTICS

FOREIGN-TRADE ZONES BOARD  
ACTIVITY AS OF 12/15/2023

	Approved
Zones	302
Subzones*	884

	Pending
Zones	0
Subzones	9
Misc.	33

\*From Fed. Reg. Notices

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