



MTB PETITIONS

Miscellaneous Trade Bill petitions are due December 10. We previously provided detailed [information](#) and instructions. Questions should be directed to [Brian Murphy](#) or [Sean Murray](#).

OFAC FINES EXCEED \$1 BILLION

The Office of Foreign Assets Control (OFAC) has [issued](#) almost \$1.3 billion in penalties in 2019. Penalties have been imposed on 18 entities, ranging from \$40,000 to over \$657 million. Among the companies penalized were General Electric, KollMorgen, Expedia, Black and Decker, and Western Union.

ENTITY LIST

On November 13, the Bureau of Industry and Security (BIS) added 22 entities to its Entity List. Some of the additions are logistics companies that diverted U.S. goods to Iran. Others are companies that diverted U.S. goods to Iran or other sanctioned locations, provided weapons support to Syria, or sent nuclear-related items to unsafeguarded nuclear facilities in Pakistan. Five bio-medical companies were added for providing material support to Syria's bio-weapons programs. 84 Fed. Reg. [61538](#) (Nov. 13, 2019).

CBP FORM 7553 REVISED

CBP has revised CBP Form 7553, the Notice of Intent to Export, Destroy or Return Merchandise for Purposes of Drawback. CSMS #[40637910](#) (Nov. 14, 2019).

VENEZUELA LICENSES

- The Office of Foreign Assets Control (OFAC) announced on October 21 that it was amending General License [\(GL\) 8D](#) to permit transactions between certain entities and Petróleos de Venezuela, S.A. (PdVSA). Entities included on the GL are Halliburton, Baker Hughes, Chevron, Schlumberger, and Weatherford International.
- OFAC has announced General License (GL) [13D](#), which permits companies to engage in certain transactions related to Nynas AB, the joint venture between PdVSA and Neste, until April 14, 2020.

ICE PACKS

CBP has ruled that ice packs with textile covers are properly classified in a textile provision (HTSUS subheading 6307.90.98) because the essential character of the import is determined by the textile cover, not the ice bag. HQ [H292799](#) (Sept. 16, 2019).

IRAN MEDICAL/AG SALES

On October 25, the Treasury Department announced a new [program](#) to ensure that legal sales of medical and agricultural products to Iran are not being diverted. OFAC also published [new recommendations](#). These new recommendations require financial institutions to maintain certain records to ensure products or money transfers are neither diverted nor laundered.

AD/CVD COLLECTION

The U.S. Government Accountability Office (GAO) has [issued](#) a report outlining Customs inability to collect

2020 TRAINING SEMINARS

- **Mar. 24 - 25:** FTZ 101 & 201
- **Apr. 21 - 22:** Import/Export 101 & 201
- **Sept. 15 - 16:** FTZ 101 & 201
- **Oct. 6 - 8:** Import/Export 101 & 201 and Advanced Export

Seminars are offered to Miller & Company clients only. See [Seminar Outlines](#). See our [website](#) for registration and travel information.

IMPORT/EXPORT YEAR-END

- Update Import/Export Manual
- Review Import Bond amounts to confirm they are sufficient to cover increased Trade Remedy Tariffs
- Issue and obtain blanket FTA Certificates of Origin before Jan. 1.
- C-TPAT Review – New Minimum Security Requirements
- Section 232 (Steel/Aluminum) Impact Analysis
- Section 301 (China, EU) Impact Analysis
- OFAC Embargoed/Sanctioned country business review
- Potential 2020 Budget
 - HTS, Value, Origin, Section 201/232/301 Validation
 - 2019 Import/Export Records Review
 - On-Site Internal Audit
 - 2020 Import/Export Training
 - At Miller & Co.
 - In-house for business units

FTZ YEAR-END CHECKLIST

- Update FTZ Manual
- FTZ Board Scope of Authority/Land/Buildings Review
- FTZ Yearly Blanket CBPF 216 Renewal.
- Review FTZ Bond amounts to confirm they are sufficient to cover increased Trade Remedy Tariffs.
- Customs FTZ Annual Reconciliation/Systems Review and Certification letter (with any necessary CBPF 214 or Customs Entry).
- FTZ Board Annual Report.
- Assess new FTZ savings opportunities for 2020.
- Potential 2020 Budget
 - HTS, Value, Origin, Section 201/232/301 Validation
 - 2019 FTZ CBP Records Review
 - On-site Internal Audit
 - FTZ Training
 - At Miller & Co.
 - In-house for business units

FTZ TRADE REMEDY VALIDATION

- Validate that Privileged Foreign (PF) status has correctly been claimed on Section 201, 232, and 301 merchandise on CBPF 214's filed at zone admission.
- Review Customs entries to confirm the correct date of Privileged Foreign (PF) status filing is identified and that the correct rate of duty is being paid. Both overpayments and underpayments have occurred.
- Use of HTSUS subheadings 9903.88.03 and 9903.88.04 twice

CHINA 301 LIST 3 EXCLUSIONS

- October 28 exclusions include 83 specially prepared product descriptions which cover 95 separate exclusion requests. Exclusions apply as of December 24, 2018 and are effective until August 7, 2020. 84 Fed. Reg. [57803](#) (Oct. 28, 2019).
- November 7 exclusions include (2) ten-digit HTSUS classifications and 34 new product specific classifications that apply as of September 24, 2018 and are effective until August 7, 2020. 84 Fed. Reg. [61674](#) (Nov. 13, 2019).
- As of November 13, about 89% of List 3 exclusion requests are pending, 102 denied, and less than 1% granted.
- Clients are reminded that exclusions are not company specific. Contact [Ryan Thornton](#) for a copy of our proprietary China 301 Product Exclusion spreadsheet.

CHINA 301 LIST 4A EXCLUSIONS

As of October 31, 2019, the USTR began accepting online tariff exclusion requests for Chinese List 4 imports subject to an additional 15% duty as of September 1, 2019. Exclusion requests are due by January 31, 2020. 84 Fed. Reg. [57144](#) (Oct. 24, 2019). Contact [Sean Murray](#) or [Brian Murphy](#) with questions or for assistance.

CHINA 301 LIST 4A ART WORKS

Original works of art have always been customs duty-free for U.S. imports. China 301 List 4A for the first time imposed a 15% duty on Chinese original works of art. On October 31, [Christie's](#) filed an exclusion seeking to exempt these articles.

CHINA 301 EXCLUSION RENEWAL

Product exclusion renewals are due November 30, for China 301 List 1 exclusions scheduled to expire December 28, 2019. There are no statutory or regulatory provisions on this subject. USTR is structuring this on their own. There is no certainty that renewals will occur, especially since opponents are free to submit new comments for consideration. 84 Fed. Reg. [58427](#) (Oct. 31, 2019). Contact [Sean Murray](#) or [Brian Murphy](#) with questions or for assistance with renewal filings.

CHINA 301 EXCLUSIONS LIMBO

For clients who have filed exclusions but not yet received them, remember to extend Customs entry liquidation to provide a legal basis for the refund.

EU SECTION 301 TARIFFS

CBP has issued a CSMS message providing detailed instructions for entry of E.U. goods subject to additional duties of either 10% or 25% effective October 18, 2019. CSMS #[40281968](#) (Oct. 17, 2019). 84 Fed. Reg. [54245](#) (Oct. 9, 2019).

CHINA TRADE IMPACT

The Congressional Research Service has issued a [report](#) indicating that as of September 1, 67% of U.S. imports from China are subject to additional tariffs in the 15%-25% range and 60% of U.S. exports are subject to retaliatory duties of 5%-25%. If escalation continues, 96.5% of Chinese imports will be affected by higher Section 301 tariffs by December 15 and 71.8% of U.S.

approximately \$20 billion in antidumping/countervailing duties between 2001 and 2018. Expect increased enforcement efforts by Customs in response to the report.

MADE IN USA

The [U.S. Department of Justice](#) has brought charges against a New York company, Aventura Technologies, and its senior management for fraud, money laundering, and illegal importation of Chinese equipment indicated as "Made in the USA" which it later sold to the U.S. military, the Department of Energy, U.S. contractors, and other U.S. companies. If convicted, the defendants face up to 20 years in prison and potentially millions in penalties.

HUAWEI

Secretary of Commerce Wilbur Ross has indicated to [Bloomberg](#) that BIS has received approximately 260 Huawei-related license applications. Most exports to Huawei, which is currently sanctioned, require a license. Secretary Ross indicated that some of the licenses would be approved "shortly," but exporters should assume that most export license applications regarding Huawei will be denied.

ACE TRUCK DEPLOYMENT

CBP has issued a [document](#) indicating the three phases of ACE truck manifest deployment. While the document indicates that the first phase will start testing in December with production in January, no real positive impact on the import trade will occur until phase three, which has no deadline. The long-suffering ACE truck manifest deployment means that paper must continue to be utilized at the Canadian and Mexican borders for truck shipments. Air and ocean functionality in ACE have existed for years.

SECTION 201 BI-FACIAL SOLAR PANELS

- The U.S. Trade Representative (USTR) is seeking to withdraw the product exclusion for bifacial solar panels from Section 201 tariff-rate quotas. 84 [Fed. Reg. 54244](#) (Oct. 9, 2019).
- On November 7, 2019, Judge Katzmann of the U.S. Court of International Trade issued a temporary restraining Order prohibiting the USTR from withdrawing the product exclusion for the bifacial solar panels as the withdrawal process may violate the Administrative Procedure Act (APA). This order indicates that the Trade Remedy product exclusion withdrawals are subject to APA requirements. Contact [Ryan Thornton](#) with questions. [Invenergy Renewables, LLC et. al. v. U.S.](#), 19-cv-192 (CIT Nov. 7, 2019).

ENERGY EFFICIENCY IMPORTS

Natural Resources Canada has [released](#) an updated list of HTS tariff codes that will be affected by energy efficiency regulations going into force December 12, 2019. Clients shipping energy-using products to Canada should note the additional regulatory requirements.

HONG KONG TRADE BILLS

The PROTECT Hong Kong Act (H.R. [4270](#)) and the Hong Kong Human Rights and Democracy Act (H.R. [3289](#)) were passed by the U.S. House of Representatives. Both acts would impact U.S. export controls applicable to Hong Kong. The Chinese government responded that it would

for 10% and 25% duty rates has significantly contributed to errors.

- The printout of a Customs entry will often not show the Privileged Foreign (PF) election date, but it must be submitted in the ACE Customs entry filing.
- Changes from NPF to PF status post-FTZ admission should be carefully considered. This is not a simple process.
- Contact [Linda King](#) or [Marshall Miller](#) with questions.

SECTION 232 EXCLUSIONS

The Office of Inspector General (OIG) for the Department of Commerce has [published](#) a management alert regarding a lack of transparency within the product exclusion process for Section 232 steel and aluminum duties. OIG cited evidence of an unofficial appeals process for product exclusion decisions, off-the-record conversations between interested parties and Commerce officials, and unpublished changes to product exclusion review criteria. OIG proposed changes to increase transparency.

CUBAN SANCTIONS

BIS has announced a Final Rule imposing new Cuban sanctions. U.S. de minimis content levels have been rolled back from 25% to 10%, there is now a general policy of denial for the licensing of leases of aircraft to Cuban state-owned airlines, there are further restrictions on license exception AVS for aircraft chartered by or leased by Cuban nationals, and there are further restrictions on license exception SCP regarding donations to the Cuban government. BIS is also clarifying the scope of telecommunications equipment that may be exported to the Cuban government without a license. 84 [Fed. Reg. 56117](#) (Oct. 21, 2019).

GSP ENFORCEMENT

The USTR [announced](#) multiple GSP actions on October 25:

- Thailand - USTR plans to suspend GSP trade preferences effective April 2020 for its failure to "adequately provide internationally-recognized worker rights." 573 tariff lines are impacted. The time lag in suspending GSP provides the opportunity for Thailand to take affirmative action that might change this decision.
- Ukraine - The U.S. is restoring some GSP benefits for Ukraine. 150 tariff lines of Ukraine merchandise involving \$121 million in exports are eligible as of October 30.
- South Africa/Azerbaijan - GSP eligibility reviews are underway based on IP protection and enforcement concerns and on workers' rights concerns.
- Mali - Mali has been designated under the African Growth and Opportunity Act (AGOA), qualifying it for preferential benefits.
- The USTR [announced](#) on October 31 that Cameroon will have its GSP eligibility terminated as of January 1, 2020 due to its persistent gross violations of human rights.

EAR PENALTY

BIS has announced that it was suspending the export privileges of Arrowtronic, as well as its manager and agent, for six years. The suspension was for violations of the Export Administration Regulations (EAR) when Arrowtronic sent aircraft parts to Syrian Arab Airlines, an entity on the Specially Designated Nationals (SDN) List. 84 [Fed. Reg. 61870, 61872, 61873](#) (Nov. 14, 2019).

exports to China will be subject to retaliatory tariffs.

SUBSTANTIAL TRANSFORMATION

- CBP has re-confirmed the use of "substantial transformation" as the standard for determining the origin of goods subject to China Section 301 tariffs. HQ [H305370](#) (Oct. 11, 2019).
- CBP has ruled that mattress bases with nearly 300 different Chinese components and materials that are assembled in Vietnam undergo a substantial transformation and are not subject to Section 301 tariffs. [N306524](#) (Oct. 30, 2019).
- CBP has ruled that the origin of certain Fitbit devices is based upon where the printed circuit board assemblies are manufactured, not the country of final assembly. The ruling holds that it is the Surface-Mount Technology (SMT) that results in a "new and different product." HQ [H302801](#) (Oct. 3, 2019).

ICE DEVICE SEARCHES

The U.S. District Court in Boston ruled on November 12 that government searches of international travelers' phones and laptops without reasonable suspicion violate the fourth amendment. [Alsaad v. McAleenan](#), D. Mass, No. 17-cv-v11730 (Nov. 12, 2019).

TURKEY SANCTIONS/NEW TRADE

- On October 23, President Trump announced that he was lifting the [sanctions](#) he imposed on Turkey the week before. Congress has introduced new legislation that could impose new sanctions, so the situation could change again in the coming weeks or months.
- On [November 11](#), the European Union (EU) announced that it was adopting a framework for imposing new sanctions on Turkey. These sanctions relate to Turkey's drilling activities in the territorial seas near Cyprus. The sanctions would include asset seizures and travel bans on individuals and entities involved in the drilling activities.
- On November 13, President Trump [proposed](#) a new trade arrangement with Turkey to increase bi-lateral trade from \$20 billion to \$50 billion.

HTSUS REVISIONS

The International Trade Commission has issued Revision 15 to the 2019 HTSUS. Revisions include removal of the exemption on certain double-sided solar panels for solar safeguard duties which was revoked and changes due to Section 301 and the new EU tariffs. 84 [Fed. Reg. 54244](#) (Oct. 9, 2019).

DDTC

The Directorate of Defense Trade Controls (DDTC) has published a Proposed Rule that would require exporters to file Voluntary Self Disclosures (VSDs) on a specific electronic form. 84 [Fed. Reg. 57801](#) (Oct. 28, 2019).

COPYRIGHT ENFORCEMENT

CBP has issued a Proposed Rule to amend its regulations concerning the importation of merchandise that violates or is suspected of violating copyright laws. Amendments include a clarification of the definition of "piratical articles," simplifying the detention process, and prescribing new regulations enforcing the Digital Millennium Copyright Act. Comments are due by December 16, 2019. 84 [Fed. Reg. 55251](#) (Oct. 16, 2019).

ALUMINUM EXTRUSIONS

<p>implement retaliatory actions if these two pending bills were passed by the Senate and signed by the President.</p> <p>FIRST SALE VALUATION Clients are reminded that the use of First Sale valuation should be confirmed with a ruling. CBP has confirmed in a ruling that there was evidence to find that a first sale price paid by the middleman to its related manufacturer complied with U.S. legal standards, but the ruling overturned a Customs port decision five years earlier denying “first sale” treatment. HQ H264968 (May 8, 2018).</p> <p>OFAC PENALTY OFAC announced on November 7, that it had reached an agreement whereby Apollo Aviation agreed to remit \$210,600 in penalties for violating the OFAC sanctions on Sudan for allegedly leasing three aircraft engines to an entity in the United Arab Emirates, who subleased the engines to a Ukrainian airline, who then installed the engines on an aircraft operated by Sudan Air. At the time Sudan Air was on OFAC’s Specially Designated Nationals (SDN) List.</p>	<p>DDTC PROCEDURES Staff at the Directorate of Defense Trade Controls (DDTC) have indicated that the new electronic DS-2032 registration form will ask exporters if they have a current policies and procedures related to the International Traffic in Arms Regulations (ITAR). DDTC has not said how they will treat this information, but it can be assumed that entities without policies and procedures will receive additional scrutiny and may have more difficulty in obtaining proper authorizations. Miller & Company can assist exporters in developing proper policies and procedures. Contact Sean Murray for more information or assistance.</p> <p>BLUE DOT NETWORK The Trump Administration, in concert with the Japanese government and the Australian government, have announced a plan with the U.S. Overseas Private Investment Corporation (OPIC) to promote high quality global infrastructure development. It is structured to be the alternative to China’s Belt and Road initiative.</p>	<p>In a scope ruling issued October 16, the Commerce Department ruled that window shutters manufactured in the Dominican Republic from Chinese aluminum extrusions were still subject to antidumping and countervailing duties on aluminum extrusions from China (A-570-967/C-570-968). Clients should continue to very carefully monitor any imports utilizing aluminum extrusions.</p> <p>BELARUS GENERAL LICENSE General License (GL) 2F has been replaced by GL 2G. Under terms of the GL, U.S. persons may do some business with the entities that were prohibited by Executive Order 13405 of June 16, 2006. Among the entities impacted by the GL are Belneftekhim and Naftan OAO. GL 2G will expire on April 26, 2021.</p> <p>321 TYPE 86 ENTRIES Since the pilot began on September 28, CBP has seen an increased level of filings. Most entries are for airfreight shipments. 65%-70% have Partner Government Agency (PGA) requirements. The principal advantage is quick release. Open questions continue to be Powers of Attorney, ISF filings, and PGA entries.</p>
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IMPORTS EXPORTS FOREIGN-TRADE ZONES

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