MILLER & COMPANY P.C. ATTORNEYS AT LAW
BRIEFINGS
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NEW EU TARIFFS – 10/18

Based upon the WTO Airbus ruling, the U.S. Trade Representative (USTR) has published a notice with the lists of products subject to additional tariffs to be implemented on October 18. The surprise was that only new aircraft, and not helicopters or aircraft parts, are included, but a wide range of consumer products are included by country of origin. Clients should carefully review the lists. FTZ clients should place affected merchandise in PF status before October 18. Expect a second WTO Boeing ruling in a few months allowing EU tariffs on U.S. exports. 84 Fed. Reg. 54245 (Oct. 9, 2019).

SECTION 232 EXCLUSION PSCs

Customs has seen a very significant increase in post-summary correction (PSC) filings because of granted product exclusions. Expect significant time delay for refunds.

FORCED LABOR ORDERS

Customs has issued 5 new Withhold Release Orders on firms in China, Malaysia, Congo, Zimbabwe, and Brazil preventing imports of multiple products due to the possible use of forced or child labor. Importers may either re-export detained shipments or provide Customs with evidence that the material is not in violation.

HYUNDAI SETTLEMENT

Hyundai has paid $47 million to settle charges that it imported and sold heavy construction vehicles with diesel engines in violation of the Clean Air Act.

CHINA PRODUCT EXCLUSIONS

The USTR has issued additional exclusions for a wide range of products, including computers, electric motors, and other critical digital equipment. Contact Ryan Thornton for a copy of the firm's updated China 301 Product Exclusion Spreadsheet. 84 Fed. Reg. 52553 (Oct. 2, 2019).

GE CUBA SANCTIONS

The Office of Foreign Assets Control (OFAC) has reached a $2.7 million settlement concerning payments received by three GE subsidiaries from the Cobalt Refinery Company, a company on the Specially Designated Nationals (SDN) List, for goods and services provided to a Canadian customer of GE.

CUSTOMS PENALTY ELIMINATION

- At a recent NCBFAA Conference, James Swanson, Director of Customs Cargo and Security Controls Division, indicated that Customs is working with the Census Bureau to significantly change Automated Export System (AES) export penalties. The plan is to remove penalties for violations such as incorrect date of export or port of export as long as corrections are made. Currently the penalties are $10,000 per error.
- Mr. Swanson stated that Customs is also examining reducing or eliminating a wide range of minor Customs import penalties.

APHIS

The USDA Animal and Plant Health Inspection Service (APHIS) has reminded importers that there is no APHIS low value exemption, notwithstanding that Customs has set up a new ACE Entry Type 86 entry test for Section 321 goods valued under $800.

HUAWEI LICENSES

Although Huawei has been placed on the Bureau of Industry and Security (BIS) Entity List, the New York Times has indicated that the Trump administration is expected to approve a few export licenses for "non-sensitive" goods to Huawei.

2019 FALL TRAINING SEMINAR

Oct. 22 & 23 - FTZ 101 & 201

Seminars are offered to Miller & Company clients only. See our website for more details. You may also contact Constance Boyle with questions or to register by phone.

MISCELLANEOUS TARIFF BILL

The U.S. International Trade Commission (ITC) is accepting Miscellaneous Tariff Bill (MTB) petitions through December 10, 2019. U.S. importers may file MTB petitions with the ITC and request reduced or duty-free treatment for raw material inputs not produced in the U.S. up to $500,000 per year. The ITC has posted a sample petition and an overview of the MTB petition system. 84 Fed. Reg. 54924 (Oct. 11, 2019). Contact Sean Murray or Brian Murphy for more information.

US/JAPAN TRADE AGREEMENT

The U.S. Trade Representative (USTR) has published the complete text of the U.S.-Japan Trade Agreement. The agreement provides for the phased elimination or reduction of duties on U.S. imports that include certain base metals, fasteners, tools, musical instruments, machines, electronic equipment, motors, tennis rackets, golf clubs, and fishing equipment. U.S. exports of certain agricultural products will have the phased elimination or reduction of duties. The agreement will go into effect 30 days after the completion of applicable U.S. and Japanese legal procedures. Contact Marshall Miller with questions.

CHINESE ENTITIES

The Bureau of Industry and Security (BIS) has added 28 Chinese tech companies to the BIS Entity List. The Chinese companies are primarily involved in surveillance products, including some involved in image recognition and artificial intelligence. The BIS indicated the companies were added for activities related to the suppression and detention of China's Uighur minority. In a related action, the U.S. has imposed visa restrictions on Chinese officials that have been involved in the Uighur detentions. China has objected, but has stated that it does not expect these actions to impact U.S.-China trade negotiations. 84 Fed. Reg. 54002 (Oct. 9, 2019).

RETALIATORY TARIFFS

The Congressional Research Service has issued an updated report on tariffs imposed by China, Canada, Mexico, the European Union, Turkey, and India as a result of recent U.S. tariff actions. CRS Report No. R45903 (Sept. 13, 2019).

L3 HARRIS FINED

The Directorate of Defense Trade Controls (DDTC) has announced that L3 Harris Technologies signed a consent agreement to pay $13 million for exporting defense articles and technology without required licenses or authorizations. Approximately half of the $13 million is to go to remedial compliance measures to prevent a re-occurrence.

USMCA

Signs points to a major effort to secure final U.S.-Mexico-Canada Agreement (USMCA) Congressional approval by Thanksgiving. Clients actively interested in USMCA should work with their Congressional contacts to support final action.

KOREAN STEEL CERTIFICATES

Customs is now requiring detailed certificates of export for importation of certain steel products from Korea. Customs has indicated it will issue ACE warning messages until January 1, 2020 for export certificate number errors. 84 Fed. Reg. 49115 (Sept 18, 2019).

CHINA-US TRADE TRUCE/PHASE 1

The U.S. and China have paused the 18-month trade war with an initial agreement. There has been no joint statement or agreement text and the public statements of both countries are different. However, the U.S. is deferring the 5% duty increase on China 301 List 1, 2, and 3 materials scheduled for October 15. In return, Chinese pledges are said to include intellectual property, currency, and financial markets. China is also said to have agreed to soybean purchases; the $40-$50 billion U.S. figure has no time period and may be aspirational as it has not been confirmed by China. China has stated it wants more in-person trade negotiations in October. The goal is to finalize and sign an agreement by mid-November at the APEC summit in Chile.

TURKEY SANCTIONS

On October 14, President Trump issued an Executive Order that authorizes the imposition of sanctions against Turkish government officials and others contributing to Turkey's actions in Syria. The Executive Order also gives the Secretary of Treasury authority to impose secondary sanctions against U.S. financial institutions and others. Additionally, the Section 232 steel tariffs on Turkey will again be doubled to 50%. The date for the duty increase is not yet clear, so clients should be working to expedite Customs entry. Contact Sean Murray or Brian Murphy with questions.

U.S./INDIA TRADE CHALLENGES

The U.S. has escalated its WTO challenge to India's increased tariffs on certain U.S. products in retaliation for U.S. Section 232 tariffs on steel and aluminum. The U.S. recently revoked India's GSP status. In parallel, the U.S. and India are negotiating a bilateral trade agreement.

RUSSIAN ENTITIES SANCTIONED

The Office of Foreign Assets Control (OFAC) announced on September 30 that it was blocking the assets of Yevgeniy Prigozhin, including three aircraft and a yacht, for his role in interfering in the 2018 U.S. midterm elections. In addition, other persons associated with the Russian Internet Research Agency were placed on OFAC's Specially Designated Nationals (SDN) List. 84 Fed. Reg. 53241 (Oct. 4, 2019).

CENTRAL BANK OF IRAN

On September 26, the Office of Foreign Assets Control (OFAC) added Iran's Central Bank, and some other Iranian financial entities, to its SDN List. U.S. companies that sell medical or food products to Iran under an OFAC General License have used the Iranian Central Bank to receive payment. This is no longer permissible. Contact Sean Murray or Chuck Ballard with questions. 84 Fed. Reg. 50884 (Sept. 26, 2019).

JAGUAR IMPORTS PENALTY

The Bureau of Industry and Security (BIS) announced on October 9 that it has reached a settlement with Jaguar Imports (JI) of Orlando, Florida, under which JI has agreed to pay $98,000 for exporting pepper spray, hand cuffs, stun guns, and police batons to Mexico, Colombia, and Panama without the proper export license. The BIS indicated that aggravating factors in the penalty included JI's failure to implement an export compliance program despite being an experienced exporter.

FISH OIL ORIGIN

Customs has ruled that filling soft gel capsules in China with Peruvian fish oil does not change the origin of the fish oil pills to China. HQ H303093 (Aug. 28, 2019).