



COVID-19 CLASSIFICATIONS

The World Customs Organization (WCO) and World Health Organization (WHO) have created a HTS classification [reference](#) for COVID-19 medical supplies. Clients are cautioned that this is just a guide.

Classifications still need to be finalized under the Harmonized Tariff Schedule of the United States (HTSUS).

COVID-19 IMPORTS

CBP has created a special team at Customs Headquarters consisting of the Pharmaceutical Health and Chemical Centers of Excellence and Expertise personnel to facilitate requests from private industry and other government agencies and expedite the release of COVID-19 relief materials. Due to the high volume of inquiries, CBP has created a COVID-19 Relief Imports Web Portal. CSMS #[42364745](#) (April 14, 2020).

COVID-19 CHINA 301 EXCLUSIONS

The U.S. Trade Representative (USTR) is accepting comments until at least June 25, 2020 on further modifications to remove China 301 duties from additional medical care products related to COVID-19. 85 Fed. Reg. [16988](#) (Mar. 25, 2020).

COVID-19 RELIEF

CBP has issued corrected guidance on the importation of certain international donations by tax-exempt U.S. charities and government entities for COVID-19 relief. CSMS #[42355785](#) (April 13, 2020).

ASSIST VALUATION

In circumstances involving the sporadic transfer of assists to suppliers where the importer is unable to determine the actual cost of each component because they are comingled in inventory with other components of the same class or kind, CBP has issued a ruling that authorizes the use of a moving average inventory value to calculate assist values after every inventory purchase. Clients are encouraged to review this ruling and consider

BUSINESS CONTINUITY

The firm continues to monitor government guidance on COVID-19 and its impact on clients, employees, and suppliers. The firm has a business continuity plan and protections in place to provide client support.

2020 TRAINING SEMINARS

While our March FTZ and April Import/Export seminars were cancelled, our Fall Training Seminars are scheduled for:

- Sept. 15 - 16: FTZ 101 & 201
- Oct. 6 - 8: Import/Export 101 & 201 and Advanced Export.

Spring registrations have been transferred to the fall seminars. See our [website](#) for more details, registration, and travel information. Contact Kelley Randol at krandol@millerco.com with questions or for changes.

FEMA COVID-19 PPE EXPORT

• The Federal Emergency Management Agency (FEMA) has issued a Temporary Final Rule, effective from April 7 to August 10, that prohibits the export of five types of Personal Protective Equipment (PPE) respirators, face masks, and surgical and exam gloves. CBP will review export shipment data and subject potentially covered shipments to a CBP detention and FEMA review/release process. The rule applies to all exporters, not just PPE producers, so it impacts companies shipping PPE to foreign affiliates, suppliers, and customers. 85 Fed. Reg. [20195](#) (April 10, 2020).
• CBP issued a memorandum to field personnel on the application of the rule. The memo includes exceptions that are not in the published rule for exports to Canada, Mexico, U.S. government entities, exports by U.S. charities and "critical infrastructure industries" (for the protection of their workers), non-commercial quantities (valued below \$2,500 and containing less than 10,000 units), and in-transit shipments. The memo became public, but CBP has indicated that it

FTZ SPACE

Many companies are desperately searching for places to store inbound shipments. The National Association of Foreign-Trade Zones (NAFTZ) is compiling a national inventory of existing activated FTZ warehouse space for companies that need FTZ status. The current inventory of activated FTZ warehouse space can be located at www.naftz.org. Clients with FTZ warehouse space are all invited to send availability to NAFTZ even if you are not a NAFTZ member. Contact [Marshall Miller](#) or [Scott Taylor](#) with questions or for assistance.

FTZ BOARD OPS

The U.S. Foreign-Trade Zones (FTZ) Board is working remotely, but still reviewing and approving new FTZ applications very quickly. With the need for more storage options while many companies are building up inventory and running out of existing FTZ space, the FTZ Board is working quickly to approve additional zone sites for storage. For details, please contact [Scott Taylor](#).

CHINA 301 EXCLUSIONS

• On March 19, USTR announced the extension of eleven (11) List 1 product exclusions set to expire on March 25, 2020. These product exclusions will now expire on March 25, 2021. The remaining product exclusions granted on March 25, 2019 expired on March 25, 2020. 85 Fed. Reg. [15849](#) (Mar. 19, 2020).
• On March 19, USTR announced the process for requesting extensions for List 1 product exclusions set to expire on June 4, 2020. Requests to extend these product exclusions must be submitted by April 30, 2020. 85 Fed. Reg. [16181](#) (Mar. 20, 2020).
• On March 20, USTR announced one hundred and eighty-two (182) new List 3 product exclusions. These product exclusions are retroactive to September 24, 2018 and will expire on August 7, 2020. 85 Fed. Reg. [17158](#) (Mar. 26, 2020).
• On March 25, USTR announced twelve (12) new List 4A product

alternative methods of assist valuation under similar circumstances. HQ [H307697](#) (Feb. 25, 2020).

FDA ENTRIES – DISCLAIM A/B

In CSMS Message [42082100](#) (March 19, 2020), CBP noted that importers must use Disclaim A for FDA related products. The use of Disclaim B will cause an entry rejection.

STICKY NOTES

CBP has ruled that cutting master rolls of paper and adding glue is not a substantial transformation which changes the origin of the large rolls of paper. There is a long history of paper processing activity that does not change the origin of the original paper. HQ [H306091](#) (Feb. 18, 2020).

BOYCOTT COUNTRIES

The Treasury Department has released its list of countries that are likely to request cooperation in a boycott that is not sanctioned by the United States. The countries include Iraq, Kuwait, Lebanon, Qatar, Saudi Arabia, Syria, the United Arab Emirates, and Yemen. Other countries may also request boycott participation or cooperation, so companies cannot just rely on this list. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions. 85 Fed. Reg. [20028](#) (April 9, 2020).

US-KENYA TRADE AGREEMENT

The U.S. has initiated negotiations with Kenya on a trade agreement. The U.S. Trade Representative (USTR) has extended the comment period on U.S. negotiating positions to April 28. 85 Fed. Reg. [16450](#) (March 23, 2020); 85 Fed. Reg. [20562](#) (April 13, 2020).

OFAC PENALTY INCREASE

The Office of Foreign Assets Control (OFAC) has announced inflation adjustments to base penalties. Penalties under the most-cited International Emergency Economic Powers Act (IEEPA) are now set at \$307,922, rising approximately \$5,000 since last year. 85 Fed. Reg. [19884](#) (April 9, 2020).

RUSSIA SANCTIONS

On March 20, the Office of Foreign Assets Control (OFAC) announced that it was amending General Licenses (GLs) [13N](#) and [15H](#) to extend winding down operations with GAZ Group to July 22, 2020.

IRANIAN CONVICTED

is not final and was not intended for release.

- Even though shipments to Puerto Rico require AES filings, shipments to Puerto Rico are not exports, so they should not be restricted.
- Contact [Sean Murray](#) with questions or for assistance in structuring documentation.

USMCA IMPLEMENTATION

The timing of USMCA implementation is unclear. It does not appear that the June 1, 2020 date targeted by the Trump Administration will occur. Mexico has requested a later date and longer transition period for the auto sector. July 1 may be optimistic. CBP still needs to publish uniform regulations.

DUTY/EXCISE TAX DEFERRAL

There have been significant efforts to defer the payment of Customs duties and TTB excise taxes due to the COVID-19 emergency, but the Administration has made it clear that there will be no deferral.

CPSC IMPORTS

The Consumer Product Safety Commission (CPSC) has announced its new Customs entry hold and review process that will be rolled out in May 2020 as part of the “1USG” release in the CBP Automated Commercial Environment (ACE). CPSC is flagging HTSUS tariff classifications for review, but the CPSC [notice](#) includes a list of products subject to CPSC review.

CHINA USTR REPORT

USTR has issued a 192-page [report](#) on China’s compliance with its WTO commitments. The report is exhaustive in detail and outlines a wide range of issues similar to previous reports. New for this report are positive statements on the Administration’s Trade Remedy actions and changes that have occurred. A new section of the report also identifies the forced labor issue with Muslims.

EXPORT JUNK/SCRAP VEHICLE

CBP has strict guidelines on the exportation of used vehicles. CBP has ruled that a bill of sale and a “transfer of non-repairable vehicle” document to a demolisher issued by the District of Columbia Parking Enforcement Management Administration is sufficient to permit export. HQ [H308498](#) (March 9, 2020).

exclusions. 85 Fed. Reg. [17936](#) (Mar. 31, 2020).

- On April 8, USTR [announced](#) extensions to eight (8) China Section 301 List 1 product exclusions granted on April 18, 2019. These product exclusions were set to expire on April 18, 2020 and will now expire on April 18, 2021. The remaining product exclusions granted on April 18, 2019 will expire on April 18, 2020. 85 Fed. Reg. [20332](#) (April 10, 2020).
- Contact [Brian Murphy](#), [Sean Murray](#), or [Ryan Thornton](#) with questions.

CHINA 301 ORIGIN

CBP Headquarters has affirmed a 2019 ruling that medical battery packs can be marked as a product of Mexico, while the country of origin for Section 301 purposes is China. Clients are encouraged to review the ruling because it provides a thorough explanation of many previous rulings on the subject. HQ [H306336](#) (Feb. 11, 2020).

CHINA PHARMA PRODUCTION

The Protecting Our Pharmaceutical Supply Chain from China Act ([S.3537](#)) was introduced by Senator Tom Cotton (R-AR) on March 19. The proposed law would prohibit purchases by the Department of Health and Human Services, Veterans Affairs, the Department of Defense, and all other federal healthcare programs of drugs containing active ingredients manufactured in China. The requirement would be phased in by the end of 2024. It would also require drug labels to include the origin of each active ingredient.

CBP AGRICULTURE ENTRIES

CBP New York indicated in an Information Pipeline dated [March 23](#), that through May 16, CBP Agricultural Specialists will allow documents to be uploaded in the ACE Document Imaging System (DIS) for some products and shipments. This process is for New York. Clients are advised to contact local CBP offices in their area.

CIT CLOSURE

Like other federal courts and most state and local courts, the U.S. Court of International Trade (CIT) has closed due to the COVID-19 crisis. Decisions and orders are still being issued. Further information is available at [www.cit.uscourts.gov](#).

KEYED DOOR LOCKS

Mr. Ali Sadr Hashemi Nejad was [convicted](#) of violating U.S. sanctions on Iran. Mr. Nejad routed \$115 million through the U.S. banking system for work on a Venezuelan construction project. Mr. Nejad faces up to 30 years in prison for his role.

CHINA CERAMIC TILE

The Department of Commerce has issued a Final Determination in its antidumping (AD) investigation into ceramic tile from China, imposing cash deposits of 203.71% for certain exporter/producer combinations and a China-wide rate of 330.69% effective for entries from April 7, 2020. Commerce also made a positive critical circumstances determination, suspending liquidation and imposing the China-wide cash deposit rate for certain entries of China tile on or after August 16, 2019, which is 90 days before the Preliminary Determination. CSMS # [0100409](#) (April 9, 2020).

DUTY/TAX-FREE CRUISE DRINKS

In response to a December 2014 Internal Advice request, CBP has ruled that it wrongly collected duties and internal revenue taxes on certain alcoholic beverages withdrawn from bonded warehouses or foreign-trade zones (FTZs) and laden on Carnival Cruise ships. CBP reasoned that alcoholic beverages are “vessel supplies” subject to duty and excise tax exemption, but the exemption is limited to vessels engaged in “foreign trade,” which CBP concluded includes cruise ships with all persons on board and the vessel secured for departure. However, Customs included a footnote as dicta that vessels anchored during the COVID-19 pandemic are not “actually engaged in foreign trade.” [HQ H260759](#) (March 30, 2020). Contact [Marshall Miller](#) or [Brian Murphy](#) with questions.

VERTICAL SHAFT ENGINES

On April 7, 2020, the Commerce Department initiated antidumping and countervailing duty (AD/CVD) investigations on certain vertical shaft engines between 99cc and 225cc and certain parts thereof from China. Covered engines may be mounted or not mounted on non-hand-held outdoor power equipment such as walk-behind lawn mowers and pressure washers, although only the engine is included in the scope. Unfinished engines, whether assembled or unassembled, are also covered. This investigation is in addition to the concurrent AD/CVD

TESTING FEES & VALUE

CBP has ruled that certain testing services performed by an unrelated third-party and a related party are not included in transaction value as part of the price paid or payable for the imported materials. [HQ H308695](#) (Feb. 25, 2020).

SECTION 232 & CH. 98

CBP has issued updated guidance that Customs entries under HTS Chapter 98 remain subject to Section 232 additional duties on steel and aluminum, except for Chapter 98 provisions that assess duties on only a portion of the article. In those instances, Section 232 duties are assessed only on the value of that portion. CSMS # [42355735](#) (April 13, 2020).

TRAVEL RESTRICTIONS

CBP has issued the following notices on travel and arrival restrictions:

- Schengen Area: 85 [Fed. Reg. 15059](#) (Mar. 17, 2020).
- UK/Ireland: 85 [Fed. Reg. 15714](#) (Mar. 19, 2020).
- Mexico: 85 [Fed. Reg. 16547](#) (Mar. 24, 2020).
- Canada: 85 [Fed. Reg. 16548](#) (Mar. 24, 2020).

HUAWEI GENERAL LICENSE

The Bureau of Industry and Security (BIS) has published a Final Rule extending the general license (GL) for specific Huawei shipments to May 15. The GL is limited to those shipments necessary for the operation of existing networks as well as support of current mobile services. BIS has also extended the comment period on future extensions to April 22, 2020. 85 [Fed. Reg. 14416](#) and [14428](#) (Mar. 12, 2020); 85 [Fed. Reg. 17300](#) (Mar. 27, 2020).

EXPORT PENALTY REVIEWED

The Bureau of Industry and Security (BIS) has affirmed an Administrative Law Judge’s finding of liability against Nordic Maritime Pte. Ltd. (NMPL) and Morten Innhaug of Singapore for exporting seismic surveying equipment to Iran, but vacated and remanded the \$30 million penalty assessment for reconsideration and modified the recommended denial of export privileges to 15 years. 85 [Fed. Reg. 15414](#) (Mar. 18, 2020).

TRADE REMEDY DUTIES UPDATE

As of April 8, 2020, CBP reports a [total](#) of \$60.8 billion in trade remedy duties, consisting of Section 301 China (\$49.6 billion), 301 EU (\$500

In a lengthy decision, the CIT has ruled that the primary function of a keyed entry device is to grasp, open, and close a door and that function is provided by the knob. As the lock is a secondary function, the proper classification is in HTSUS subheading 8302.41.6045 (3.9% duty rate) as opposed to subheading 8301.40.6030 HTSUS (5.7%). Besides being an interesting read, the ruling reminds that the “essential character” analysis of imported merchandise is often critical in accurate HTS classification. [Home Depot U.S.A. Inc. v. U.S.](#), CIT [Slip Op. 20-40](#) (Mar. 26, 2020).

STEEL LICENSING EXPANSION

The Commerce Department has proposed that the current Steel Import Monitoring and Analysis (SIMA) system be expanded to include all Section 232 steel products, require more information to be submitted including where imported steel products were melted and poured, remove the current 2022 expiration date, and expand the low value license for certain steel entries valued under \$5000. Comments are due by April 29. 85 [Fed. Reg. 17515](#) (March 30, 2020). Contact [Ryan Thornton](#) with questions.

NORTH KOREA SANCTIONS

The Office of Foreign Assets Control (OFAC) has published a Final Rule updating the North Korea Sanctions Regulations to add blocking authorizations, add a prohibition for non-U.S. entities that are owned or controlled by U.S. financial institutions, add new exemptions to the new prohibitions, and update some definitions, including the definition of luxury goods. 85 [Fed. Reg. 20158](#) (April 10, 2020).

301 ORIGIN-BATTERY PACKS

In [HQ H308831](#) (Feb. 25, 2020), CBP reaffirmed that battery cells from Malaysia or Singapore do not undergo a change in use as a result of an assembly process in China that creates battery packs. As a result, the origin of the battery packs is the origin of the cells.

CBP TRADE SYMPOSIUM

The Trade Symposium has been rescheduled for August 25-26 in Anaheim, California.

investigation on large Chinese vertical shaft engines between 225cc and 999cc. CSMS #[42315768](#) (April 9, 2020).

million), Section 232 Steel (\$6.9 billion), 232 Aluminum (\$2.1 billion), Section 201 washing machines/parts and solar cells (\$1.7 billion).

FOREIGN-TRADE ZONE BOARD
ACTIVITY AS OF 03/15/20

| | <u>APPROVED</u> | <u>CURRENTLY AUTHORIZED</u> |
|----------------|-----------------|---------------------------------|
| ZONES | 294 | 276 |
| SUBZONES | 844 | 690 |
| | | |
| <u>PENDING</u> | | |
| ZONES | 3 | |
| SUBZONES | 15 | |
| MISC. | 34 | |

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