



301 PRODUCT EXCLUSIONS

- On April 24, the U.S. Trade Representative (USTR) announced one-hundred and eight (108) new List 3 product exclusions. 85 Fed. Reg. [21322](#) (April 24, 2020).
- On May 6, the USTR announced the process for requesting extensions for approved List 3 product exclusions set to expire on August 7, 2020. The latest rounds of List 3 product exclusions granted on April 24 and May 8, 2020 are not included in this extension process. 85 Fed. Reg. [27011](#) (May 6, 2020).
- On May 8, the USTR announced one-hundred and forty-six (146) new List 3 product exclusions. 85 Fed. Reg. [27489](#) (May 8, 2020).
- On May 13, the USTR announced eight (8) new List 4A product exclusions. 85 Fed. Reg. [28693](#) (May 13, 2020).
- On May 13, the USTR announced certain technical amendments to List 1 and List 2 product exclusions. 85 Fed. Reg. [28692](#) (May 13, 2020); 85 Fed. Reg. [28691](#) (May 13, 2020).
- For detailed analysis of Section 301 product exclusions, please visit the [What's New](#) section of our website.

FTZ COMPLIANCE REVIEW

CBP Headquarters has released a [summary](#) of its April 2019 detailed FTZ compliance review standards. Clients are urged to review the standards and see also our ["What's New"](#) of November 22, 2019. Contact [Linda King](#) with questions.

TRANSFER PRICING

The negative economic impact of the COVID-19 pandemic could result in tax departments retroactively changing transfer prices. Clients are reminded to be proactive and vigilant in addressing to obtain duty refunds if possible and prevent related party

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.

USMCA JULY 1

- The U.S. Trade Representative (USTR) [announced](#) on April 24 that the USMCA will enter into effect on July 1. The July 1 implementation date gives importers, producers, and exporters little time to prepare. Clients should be reviewing current NAFTA receipts and shipments to anticipate transition issues and needs.
- On April 20, CBP posted [Interim Implementing Instructions](#) for the U.S.-Mexico-Canada Agreement (USMCA). The document is not final and is subject to further revision as many details still must be addressed and aligned with Canada and Mexico as part of the Uniform Regulations process.
- The USTR has published procedures for requesting alternative staging of the USMCA requirements for North American producers of passenger vehicles and light trucks. Petitions with draft alternative staging plans must be submitted by July 1, 2020. 85 Fed. Reg. [22238](#) (April 21, 2020).

USMCA WEBINAR

- The firm will be presenting a webinar on USMCA requirements, transition issues, and implementation strategy on Thursday, June 4, three days after CBP is scheduled to release the implementing regulations. More details will be available soon on the What's New section of the firm website.

PPE EXPORT BAN

- The Federal Emergency Management Agency (FEMA) has issued a [Temporary Final Rule](#) banning the export of five types of personal protective equipment (PPE) such as certain respirators and surgical masks and gloves through August 10, 2020. 85 Fed. Reg. [20195](#) (April 10, 2020).
- FEMA has issued a Notice with ten exemptions from the rule. Five require shipment-specific Letters of Attestation to be submitted through the CBP Document Imaging System (DIS). 85 Fed. Reg. [22021](#) (April 21, 2020).
- FEMA expects to issue administrative decisions for most held shipments within 2 days.
- The firm has prepared template Letters of Attestation for use. Contact [Sean Murray](#) for details.

PPE IMPORTS

Many companies are importing PPE for company, supplier, and customer use. Importers are reminded that different tariff classifications apply, the imports may be subject to FDA regulation depending on intended use, and PPE from China may qualify for an exclusion from the Section 301 additional duties.

COVID-19 UPDATES

- The COVID-19 pandemic has impacted bonded movements and bonded storage of imported and exported merchandise including Foreign-Trade Zone (FTZ) shipments. The in-transit timeframe for in-bond CBPF 7512 movements is thirty (30) days (sixty days for barge movements and no time limit for pipelines). In-bond merchandise must be entered, exported, or admitted into an FTZ within fifteen (15) calendar days from the date of arrival of the entire in-bond shipment. Otherwise, the in-bond

valuation issues. Contact [Sean Murray](#) or [Tom Lobred](#) with questions.

BIS EXPORT RESTRICTIONS

The Bureau of Industry and Security (BIS) has issued two rules to further restrict exports of certain commodities and information to China, Russia, and Venezuela:

- A Final Rule, effective June 29, 2020, that eliminates license exception "CIV" for certain items controlled for national security (NS) reasons. 85 Fed. Reg. [23459](#) (April 28, 2020).
- A Proposed Rule to modify license exception "APR" for certain re-exports of items or technology controlled for NS reasons. Comments on the Proposed Rule are due by June 29, 2020. 85 Fed. Reg. [23495](#) (April 28, 2020).

CUBA PENALTY

The Office of Foreign Assets Control (OFAC) has entered into a [settlement agreement](#) with BIOMIN America, an animal nutrition company based in Overland Park, Kansas, for violating the Cuban Assets Control Regulations. Under the terms of the settlement, BIOMIN agreed to pay \$257,862. OFAC alleged that BIOMIN supplied agricultural products to a Cuban entity through its foreign affiliates. The sale would have been authorized had BIOMIN obtained the proper authorizations from the Bureau of Industry and Security (BIS). Contact [Sean Murray](#) or [Chuck Ballard](#) with questions.

ALUMINUM IMPORT MONITORING

The Commerce Department has requested comments on a Proposed Rule to establish an aluminum imports monitoring system. The system would be similar to the steel system to identify potential transshipment and circumvention of U.S. trade measures. Comments are due by May 29, 2020. 85 Fed. Reg. [23748](#) (April 29, 2020).

CTPAT VALIDATIONS STOPPED

2020 CTPAT validations have currently ceased due to COVID-19. Alternate options are being explored. Updated Minimum Security Criteria dates are not being

USMCA FIRST STEP

Under the USMCA, the compliance burden is shifted to the importer. We urge all clients to begin requiring suppliers to provide USMCA "certifications" of origin attesting that merchandise is USMCA qualified. We can supply draft certification forms to be modified for client use. Contact [Marshall Miller](#) with questions.

NAFTA/USMCA TRANSITION

Clients should carefully consider the transition from NAFTA to USMCA. The only guidance on transition issues is [Section 202\(o\)\(2\)](#) of the USMCA Agreement Implementation Act (P.L. No. 116-113). It is very short and does not mention FTZs. Among the considerations are:

- Imports that are NAFTA qualified until June 30 and are not USMCA qualified beginning July 1.
- USMCA "certifications" of origin should be provided by suppliers prior to July 1.
- CBP has stated that NAFTA markings rules will continue under USMCA until further notice.
- USMCA claims should be filed as of July 1 as currently there is no ability to retroactively secure MPF refunds in USMCA.
- What happens on July 1 for Customs entries of NAFTA qualified parts currently held in FTZs for production and finished goods in FTZ privileged foreign (PF) status?
- Will PF status elected prior to July 1 retain the NAFTA duty-free status?
 - Is it advisable to stop admitting NAFTA-qualified merchandise to FTZs in PF status now?
- Will the CBP ACE system recognize NAFTA qualified merchandise as duty-free after July 1 on FTZ entries?
- Will the Trump Administration not recognize PF status as they did when the Section 232 Trade Remedies began?
 - Is it advisable to duty pay all on hand inventory NAFTA qualified merchandise in FTZs prior to July 1 with a Non-Processing Stipulation, physical removal, or deactivation as appropriate?

USMCA INFORMED COMPLIANCE

merchandise is subject to General Order (G.O.) requirements. With air, sea, rail, and truck capacity issues and overflowing warehouses, it is important for all clients to take proactive steps to monitor in-bond movements and work with local CBP ports to avoid unnecessary additional expense, delays, or noncompliance with CBP and FTZ regulations.

- On April 16, the Office of Foreign Assets Control (OFAC) issued a "[Fact Sheet](#)" outlining requirements and exemptions for providing humanitarian aid to sanctioned and embargoed countries relating to the COVID-19 pandemic.

DUTIES, TAXES AND FEES

CBP has issued a notice that would defer the payment of certain duties, taxes, and fees for 90 days. The temporary extension for payments of Customs duties does not involve any merchandise subject to the Trade Remedies or antidumping/countervailing duties (AD/CVD). Clients are urged to carefully analyze all the restrictions on this methodology as CBP has indicated few firms have filed notice for the delay. 85 Fed. Reg. [22349](#) (April 22, 2020). Contact [Brian Murphy](#) with questions.

XANTHAN GUM

CBP has issued a [Final Determination](#) under the Enforce and Protect Act (EAPA) that seven xanthan gum importers used evasive measures including transshipment to avoid antidumping duties.

ITAR EXEMPTION

The Directorate of Defense Trade Controls (DDTC) has updated its [frequently asked questions \(FAQs\)](#) to clarify the use of the exemption in Section 126.4(a) of the International Traffic in Arms Regulations (ITAR) for exports of defense articles or technology on behalf of a U.S. government agency without a license.

CANADA/MEXICO TRAVEL

Travel restrictions for non-business purposes have been extended to May 20. 85 Fed. Reg. [22352](#) (April 22, 2020).

NYNAS AB – VENEZUELA

delayed. Contact [Sean Murray](#) for assistance.

POWER PLANT IMPORTS

Invoking the International Emergency Economic Powers Act (IEEPA), President Trump has issued an [order](#) barring imports of a wide range of equipment used in power system substations, control rooms, and similar activities as a threat to national security. The order is effective as of May 1. Regulations will follow within 150 days. It is unclear how purchases initiated before May 1 will be treated when the importation has not yet occurred.

SECTION 301 LIST 4A FTZ IMPACT

The NAFTAZ has submitted a ruling [request](#) concerning the CBP decision in CSMS Message #41538917 to assess duties on Section 301 List 4A merchandise admitted into FTZs in PF status at the 15% rate on the date of admission instead of at the reduced 7.5% rate on the date of withdrawal. The NAFTAZ position is that the government mandated privileged foreign status should be treated for Section 301 purposes as it is for Section 232 and antidumping/countervailing duty purposes and be the rate in effect on the date of withdrawal. Clients should consider extending the liquidations of FTZ entries entered on or after that date where the 15% rate was paid, to preserve potential refund opportunities. Contact [Marshall Miller](#) with questions.

BONDED MOVEMENTS

CBP has ruled that vehicles are not properly bonded where a bonded carrier accepts responsibility under its bond but never takes physical possession of the vehicles and then transfers the vehicles to a non-bonded carrier. Although 19 C.F.R. § 18.2(a)(1) allows merchandise delivered by a bonded carrier to be transferred to other bonded or non-bonded carriers, physical possession by the obligating bonded carrier is required. [HQ H307742](#) (May 5, 2020). Contact [Marshall Miller](#) or [Linda King](#) with questions.

AMAZON WEBSITES

Five Amazon foreign [websites](#) in the UK, Germany, France, and Canada

Brenda Smith, Executive Assistant Commissioner of CBP's Office of Trade, indicated on May 11 that CBP is "disinclined" to offer an informed compliance period after July 1 as, except for auto industry imports, CBP considers most rules of origin to be the same as under NAFTA. She also stated that CBP Uniform Regulations are expected June 1.

USMCA FTZ ORIGIN

It appears that the USMCA Implementation Act (H.R.5430) (Public Law No. 116-113) did not include the NAFTA provisions that did not allow merchandise produced in FTZs to use NAFTA preferential duty rates and did not allow it to be considered NAFTA status for U.S. import. The National Association of Foreign Trade Zones (NAFTZ) has [contacted](#) CBP Headquarters for clarification. Contact [Marshall Miller](#) with questions.

CBP USMCA CENTER

CBP has opened a [USMCA Center](#) to help coordinate implementation. The center will be staffed with operational, legal, and audit experts to serve as a central communications hub between CBP and the private sector.

PHASE ONE TRADE DEAL

- On May 12, U.S. and Chinese officials indicated the U.S.—China Phase One trade deal will remain in effect for the immediate future. As part of the Phase One deal, China Section 301 List 4A duties were reduced from 15% to 7.5%. President Trump had previously indicated that the Phase One deal could be revisited in response to China's purported role in the COVID-19 outbreak.
- On May 12, the Chinese Finance Ministry [announced](#) a new list of exemptions for U.S. origin merchandise subject to Chinese retaliatory tariffs. Products covered by these new exemptions include certain communications equipment, semiconductor manufacturing equipment, radar equipment, and digital cameras.

VENEZUELA GENERAL LICENSE

On April 21, OFAC issued [General License \(GL\) 8F](#), which authorizes

Nynas AB (Nynas) has undergone a restructuring so that blocked parties no longer control Nynas or have 50 percent ownership of the company. As a result, [Nynas is no longer blocked](#). OFAC has archived General License (GL) 13E and is revising other GLs, including [3H](#) and [9G](#). OFAC has also updated its [frequently asked questions \(FAQs\)](#) to include these changes.

AUTOMATED EXPORT SYSTEM

CBP has published a detailed explanation of the [Automated Export System](#) (AES).

ACS-ABI CATAIR

CBP published a useful fundamental [document](#) that describes all aspects of the ACS-ABI CATAIR.

OFAC SANCTIONS

On May 14, OFAC issued [new guidance](#) aimed at the maritime, metals, and energy industries regarding deceptive practices practiced by North Korea, Iran, and Syria, to avoid sanctions. The OFAC advisory includes a number of best practices by industry to reduce exposure to these countries' deceptive practices.

FTZ ASF ADVANTAGE

Although 90% of active zones have moved into the streamlined FTZ Board application process known as the Alternative Site Framework (ASF), several still have not yet filed an ASF Application. We have prepared over 60 ASF Applications for Grantee organizations to move their zones into this streamlined ASF option. Expansions of existing zone sites are becoming more necessary as companies look for more FTZ storage space with the slowdown in consumer and industrial purchases. Contact [Scott Taylor](#) for assistance.

SECTION 232 INVESTIGATIONS

- The Commerce Department has [announced](#) a Section 232 [investigation](#) into imports of laminations and wound cores for incorporation into electrical transformers.
- The Commerce Department has [announced](#) a Section 232 investigation into mobile crane imports.

have been added to the “notorious markets” registry by USTR for facilitating the sale of counterfeit and pirated products.

MANUFACTURING DRAWBACK

CBP has issued a new simplified [General Manufacturing Drawback Ruling](#) for component parts. It provides a new and useful option for substitution drawback. 54 [Cust. B & Dec. 15](#) (April 22, 2020).

SECTION 321 ENTRIES

Nearly 50 million Type 86 entries have been filed for the new Section 321 Duty Free/Trade Remedy Free entries. Entries are averaging 1.5-1.7 million per day. This system volume exceeds formal Type 01 entries. It is the reason why there are daily ACE IT/response time delays.

transactions involving Petróleos de Venezuela, S.A. (PdVSA) required for maintenance of essential operations and winding down of operations in Venezuela by Chevron Corporation, Halliburton, Schlumberger Limited, Baker Hughes, and Weatherford International. GL 8F remains in effect until December 1, 2020.

IRON MOUNTAIN AND IRAN

In a filing with the Securities and Exchange Commission (SEC), Iron Mountain [disclosed](#) that a foreign subsidiary provided services to an Iranian government entity designated for weapons proliferation.

ALUMINUM ORIGIN

CBP has ruled that Chinese aluminum foil cold rolled and annealed in Germany is of German origin. [HQ H302201](#) (April 6, 2020).

FTZ STATS

FOREIGN-TRADE ZONES BOARD
ACTIVITY AS OF 05/15/2020

	<u>APPROVED</u>	<u>CURRENTLY AUTHORIZED</u>
ZONES	294	276
SUBZONES	848	694
PENDING:		
ZONES	3	
SUBZONES	13	
MISC.	44	

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