



## HUAWEI DIRECT PRODUCT RULE

The Bureau of Industry and Security (BIS) has published an Interim Final Rule, effective May 15, 2020, relating to General Prohibition Three (the “direct product rule”). Under this new rule, foreign products made from U.S. technology, regardless of the reason for control, are prohibited from being sold to entities on the Entity List when there is a special footnote designation. Currently this rule only applies to sales or exports to specified Huawei entities. Comments are due by July 14. 85 Fed. Reg. [29849](#) (May 19, 2020).

## 301 COVID-19 EXCLUSIONS

Requests for China Section 301 exclusions for products related to the COVID-19 pandemic are due by June 25 unless extended. No COVID-19 product exclusions have been approved to date. Unlike other Section 301 product exclusion requests, COVID-19 product exclusion requests need to be filed using the Regulations.gov [website](#). Contact [Brian Murphy](#) or [Sean Murray](#) with questions or to assist in filing COVID-19 product exclusion requests. 85 Fed. Reg. [16987](#) (March 25, 2020).

## COVID-19 COUNTERFEITS

CBP has [seized](#) a significant amount of prohibited test kits, counterfeit face masks, chloroquine tablets, etc. Clients are reminded to be very diligent in ensuring that only U.S. approved or authorized COVID-19 merchandise is imported into the United States. Contact [Sean Murray](#) with questions.

## ITAR & COVID-19

The Directorate of Defense Trade Controls (DDTC) has issued a request for comments relating to temporary suspensions, modifications, and exceptions to several provisions in the International Traffic in Arms Regulations (ITAR). The proposal is an effort to maintain continuity of operations during the COVID-19 pandemic. The temporary measures include extended license expirations. Comments are due by June 25. 85 Fed. Reg. [35376](#) (June 10, 2020).

## CUSTOMS BROKER RULE

CBP and Treasury have issued Proposed Rules to substantially amend the regulations governing customs brokers. Among the proposed changes are moving all brokers from forty (40) Customs Districts to national permits, revising supervision and control requirements, transferring all broker oversight from Port Directors to Centers of Excellence and Expertise (CEE) that

## FIRM USMCA WEBINAR

Sean Murray is presenting a new detailed USMCA webinar for clients on June 18 at 1 pm CDT. It will cover the new regulations and transition planning. Reservations can be made [here](#).

## USMCA UPDATE

- USMCA goes into effect on July 1, replacing NAFTA.
- USTR has [released](#) the USMCA Uniform Regulations on June 3, 2020.
- CBP USMCA Implementing Regulations were scheduled for publication on June 15, but have not yet been released. The firm will send a client update when they are released.
- The U.S. International Trade Commission will be issuing a new HTSUS General Note 11 for USMCA before July 1.
- USMCA deployment in ACE has been scheduled for July 1, the same day that the USMCA goes into force. As a result, expect delays and other issues on July 1 for USMCA entries.
- The firm has developed a template USMCA “certification of origin” electronic fillable form. Contact [Sean Murray](#) with questions or to request a copy.

## USMCA DISPUTE RESOLUTION

Senate Finance Committee Chairman Chuck Grassley (R-Iowa) has indicated that Mexico’s blocking of biotechnology and pesticide imports will be a basis of the first state-to-state dispute resolution once USMCA goes into effect.

## USMCA MPF REFUNDS

Senator Tim Scott (R-SC) has introduced a [bill](#) to allow Merchandise Processing Fee refunds on post-importation USMCA preference claims. This was not included in the USMCA legislation previously passed.

## SECTION 232 PROCESS

BIS has issued a Final Rule seeking public comments on Section 232 steel and aluminum exclusion product criteria. The Section 232 exclusion process has a significant amount of criticism. Comments are due by July 10. 85 Fed. Reg. [31441](#) (May 26, 2020). Contact [Brian Murphy](#) with questions.

## POTENTIAL EU VEHICLE TARIFFS

On June 5 in Maine President Trump again [threatened](#) to impose Section 232 additional tariffs on European Union (EU) vehicles unless the EU drops its increased tariffs on U.S. lobster. The EU

## HONG KONG

- On May 27 China announced its intention to unilaterally impose national security legislation on Hong Kong.
- The U.S., Australia, Canada, and United Kingdom released a [joint statement](#) on May 28.
- On May 29 President Trump indicated that the U.S. would begin a process to revoke Hong Kong’s special treatment, including its more lenient export controls for dual-use technologies and recognition as a separate customs territory with duty free U.S. imports. However, official changes have not yet been made.
- A June 5 Congressional Research Service [report](#) provides details on the complex circumstances.

## CHINA 301

- On May 21, 2020, the U.S. Trade Representative (USTR) [announced](#) seventy-eight (78) new China Section 301 List 3 product exclusions.
- On June 3, the USTR [announced](#) the process for requesting extensions to certain China Section 301 List 3 product exclusions approved in late April and May that are set to expire on August 7, 2020.
- On June 8, the USTR issued a Notice of thirty-four (34) new China Section 301 List 4A product exclusions covering certain unbleached woven fabrics of cotton and thirty-two (32) new product-specific descriptions covering a variety of goods such as certain lithium-ion batteries, optical channel splitters, LCD main board assemblies and modules, down, cyanuric chloride, plastic mop fittings, Chinese language books, gloves, pillow and comforter shells, steel round wire, brass valves, plastic safety spectacles, wristwatch parts, child safety seat parts, and fish hooks. These China Section 301 List 4A product exclusions are retroactive to Sept. 1, 2019 and expire on Sept. 1, 2020. 85 Fed. Reg. [35975](#) (June 12, 2020).

## CHINA 301 EXCLUSION STATS

The USTR has decided all 30,283 China Section 301 List 3 product exclusion requests. 95% were denied. 74% of the 8,781 List 4A product exclusion requests are still pending.

## MILITARY END USE/USERS

The Bureau of Industry and Security (BIS) has published a Final Rule that corrects and clarifies its April 28 Final Rule that expanded export, re-export, and in-country transfer controls for

currently organized by industry-specific categories, requiring customs business and recordkeeping to be performed in the U.S., and requiring broker communications with importers. License application fees would also be increased. Comments are due by August 4. 85 Fed. Reg. [34836](#) (June 5, 2020); 85 Fed. Reg. [34549](#) (June 5, 2020).

#### IMPORT CONFIDENTIALITY

The firm has long recommended that clients seek "confidentiality" on vessel manifests for both import and export. CSMS message #[42747527](#) (May 22, 2020) announced a [new online system](#). Contact [Brian Murphy](#) with questions.

#### DOJ COMPLIANCE GUIDANCE

The Department of Justice (DOJ) has published [new guidance](#) on corporate compliance programs. DOJ indicated that when investigating companies they will look to see whether companies are relying on data from previous penalties, applying this data, and providing adequate employees training. The DOJ will also examine whether companies are adapting to change and evaluating risks, or just doing the minimum to comply. For more assistance in developing or improving your compliance program, contact [Sean Murray](#).

#### GSP RENEWAL

Representative Ron Kind (D-Wisc.) indicated in a recent interview that the Generalized System of Preferences (GSP) might be renewed prior to its expiration at the end of 2020. However, renewal might be problematic in an election year.

#### SYRIAN REGULATIONS

The Office of Foreign Assets Control (OFAC) has published a Final Rule relating to dealings with Syria. The new OFAC regulations relate primarily to blocked parties and persons and entities on the OFAC Specially Designated Nationals (SDN) List. Licenses and regulations pertaining to other exports, reexports, or transfers to Syria remain under the jurisdiction of the Export Administration Regulations (EAR) administered by the BIS. 85 Fed. Reg. [34510](#) (June 5, 2020).

#### HTSUS 2020 REVISION 12

On June 4 the U.S. International Trade Commission issued [Revision 12](#) to the 2020 Harmonized Tariff Schedule of the United States.

#### REGULATORY RELIEF

On May 19, President Trump [issued](#) an Executive Order (EO) directing federal agencies to identify possible regulatory relief and exercise enforcement discretion to support economic recovery from the COVID-19 pandemic.

#### AIR FORCE SUPPLY CHAIN

The BIS announced on June 8 that it is working with the Air Force to review the Air Force's procurement and supply chain. The review is designed to resolve supply chain deficiencies, foreign dependence, and other issues that import efficiency.

#### FORCED LABOR INVESTIGATIONS

CBP has [instituted](#) a number of efforts to

increased tariffs assessed in retaliation for the U.S. tariff increase on EU imports.

#### MISCELLANEOUS TRADE BILL

The MTB is set to expire on December 31, 2020. It currently provides tariff cuts on 1,600 products. On June 9, the U.S. International Trade Commission (ITC) submitted its [preliminary report](#) to Congress on petitions for new temporary duties suspensions. A total of 3,479 petitions were submitted, of which 2,632 were found to meet the requirements. A comment period will open on June 15 on petitions not recommended for inclusion. The final ITC report is due on August 9. Contact [Ryan Thornton](#) with questions.

#### PEST ISSUES

Clients are reminded of ISPM 15 treatment requirements for wood packaging materials. On May 29 CBP agriculture specialists inspected and identified termites on a [shipment](#) of lumber from Cameroon. CBP is vigilant on these matters and will stop shipments containing pests. It can be very expensive to correct the issues. Contact [Brian Murphy](#) with questions.

#### 232 DERIVATIVES TARIFFS

Two nail importers, J. Conrad and Metropolitan Staple, were [denied](#) a preliminary injunction by the U.S. Court of International Trade. They were attempting to join the original litigation that obtained an injunction in Primesource Bldg. v. U.S., CIT Case No. [20-cv-00032](#) (Feb. 13, 2020). See our February Briefings newsletter for details.

#### IRAN FORFEITURE

The U.S. Department of Justice (DOJ) [announced](#) in a June 3 press release, that it is seeking a \$20 million forfeiture from Kenneth Zong, a U.S. citizen who allegedly attempted to convert approximately \$1 billion of Iranian owned funds in a Korean financial institution to U.S. and other currencies in violation of U.S. laws.

#### AD/CVD

The Commerce Department has issued its list of completed antidumping and countervailing duties scope rulings and anticircumvention determinations for the quarter ending March 31, 2020. 85 Fed. Reg. [35261](#) (June 9, 2020).

#### ALUMINUM EXTRUSIONS

The scope of the AD/CVD orders aluminum extrusions continue to cause difficulties. The Commerce Department has ruled that mounts for roof solar panels are within the scope of the aluminum extrusion orders. 85 Fed. Reg. [35261](#) (June 9, 2020).

#### KENYA FTA

USTR has released a May 2020 summary of specific negotiating [objectives](#) for the free trade agreement with Kenya. Exactly when and how a Kenya FTA will be concluded is unknown.

#### IRAN FAQs

The Office of Foreign Assets Control (OFAC) added 4 [new frequently asked questions \(FAQs\)](#). The FAQs clarify that

military end uses and end users in China, Russia, and Venezuela. Clients are encouraged to review the covered Export Control Classification Numbers (ECCNs) and the definition of "military end user," which includes national police and other organizations besides the national armed services. Contact Sean Murray or Chuck Ballard with questions. 85 Fed. Reg. [34306](#) (June 3, 2020).

#### CHINESE ENTITY LIST ADDITIONS

The BIS has added 33 Chinese companies and government entities to its Entity List. The entities were added based on proliferation activities and human rights concerns. 85 Fed. Reg. [34495](#) (June 5, 2020); 85 Fed. Reg. [34503](#) (June 5, 2020).

#### U.S.-CHINA TRADE WAR IMPACT

The Federal Reserve Bank of New York has published a [report](#) indicating that \$1.7 trillion of market value has been cut from U.S. companies by the U.S.-China trade war. In addition, almost all the costs of the higher tariffs on Chinese imports fell on U.S. companies. Companies that export to China became less profitable due to retaliatory tariffs.

#### CHINA AUTOMOTIVE ORIGIN

CBP Headquarters has ruled that a Chinese origin shock absorber that was assembled in Malaysia with a wide range of other Malaysian origin components into an automotive suspension system was Chinese origin because the shock absorber was the essence of the suspension system and was not substantially transformed by the activity in Malaysia. HQ [H310543](#) (May 18, 2020).

#### SECTION 232 MOBILE CRANES

The BIS has issued a Notice requesting public comments on imports of mobile cranes. Comments are due July 10, 2020. 85 Fed. Reg. [31439](#) (May 26, 2020).

#### TSCA PFAS VIOLATIONS

Swix Sport on Cat USA (Swix) has reached an [agreement](#) with the U.S. Environmental Protection Agency to pay a civil penalty of \$375,625 and develop an educational program to raise awareness in ski communities about PFAS chemicals in ski waxes. Swix violated TSCA premanufacturing notice requirements and import certification requirements with respect to six different PFAS chemicals on at least 83 occasions.

#### CHEMICAL COMPANY PENALIZED

The U.S. Department of Justice (DOJ) [announced](#) on June 10 that Natural Advantage LLC, a Louisiana chemical manufacturer, had agreed to a deferred prosecution agreement whereby Natural Advantage will pay \$1,938,650. Natural Advantage is accused of manufacturing and selling "List 1" chemicals without the proper permits and authorizations from the Drug Enforcement Agency (DEA). Executives for Natural Advantage are also being charged.

#### JEEP SECTION 337

The USITC has issued a Section 337 Limited Exclusion Order and a cease and desist order prohibiting the

withhold imports of forced labor products. All clients should consider a program to confirm that products are not made with forced labor. There is a specific requirement in USMCA for validating that merchandise is not made with forced labor.

**METAL YARN**

In a case revolving around whether certain yarn was "metalized," the U.S. Court of International Trade (CIT) has ruled that women's pants made from the yarn are classified in HTSUS 6104.63.2011 (28.2%) as women's trousers of synthetic fibers instead of in HTSUS 6104.69.8038 (5.6%) as women's trousers of other textile materials. Lockhart Textiles, Inc. v. U.S., CIT Slip Op. [20-74](#) (May 29, 2020).

**CUBA RESTRICTED LIST**

The State Department has issued an updated [list](#) of entities that are generally subject to BIS Cuba export and reexport license denials. 85 Fed. Reg. [35972](#) (June 12, 2020).

**232 TRANSFORMERS**

The BIS has issued a Notice that it is extending the comment period for its Section 232 national security investigation into imports of electrical transformers, transformer regulators, and laminations, stacked cores, and wound cores for transformers to July 3. 85 Fed. Reg. [35899](#) (June 12, 2020).

the new sanctions relating to President Trump's [Executive Order 13902](#) (Jan. 10, 2020) do not sanction Iran's medical industry including medicines, personal protective equipment, and medical equipment.

**FTZ FWS IMPLEMENTATION**

The Fish and Wildlife Service (FWS) has issued an updated Implementation Guide (IG) that provides substantial benefits for FTZs. Beginning July 6, FTZs will have access to FWS data for regulated products. The mandatory filing requirement planned for October 2020 will allow FTZs to use "Unknown" or "Various" instead of providing all license and permit numbers for FTZ Type 06 entries. CSMS [#42970148](#) (June 8, 2020).

**BITCOIN MACHINES**

CBP has ruled that a machine used for mining cryptocurrency is not classified as an automatic data processor under Heading 8471, but in subheading 8543.70.99 as electrical machines and apparatus because it does not allow for general purpose computing tasks and is not capable of displaying graphics. HQ [H309938](#) (April 30, 2020).

**ACE TRUCK MANIFEST**

A modernized truck manifest user interface (UI) was deployed in the ACE Truck Manifest production environment on June 12. CSMS [#43018443](#) (June 12, 2020).

importation of certain motorized Roxor vehicles and components thereof produced by Mahindra & Mahindra Ltd. of India that infringe Fiat Chrysler Automobiles asserted trade dress. Contact [Brian Murphy](#) with questions. USITC Invest. No. [337-TA-1132](#) (June 11, 2020).

**CEE DIRECTORY**

CBP has [updated](#) contact information for the Centers for Excellence and Expertise (CEE) to include team codes.

**FTZ STATS**

FOREIGN-TRADE ZONES BOARD		ACTIVITY AS OF 06/15/2020	
		CURRENTLY APPROVED	AUTHORIZED
ZONES	294	276	
SUBZONES	852	698	
PENDING:			
ZONES	3		
SUBZONES	11		
MISC.	44		
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1300 I STREET N.W., SUITE 400E WASHINGTON D.C. 20005	4929 MAIN STREET KANSAS CITY, MISSOURI 64112 816.561.4999 FAX 816.561.4999	233 BROADWAY, SUITE 2702 NEW YORK, NEW YORK 10279
E-MAIL: <a href="mailto:intlaw@millerco.com">intlaw@millerco.com</a> <a href="http://www.millerco.com">www.millerco.com</a>		

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