



SECTION 301 – VIETNAM

On October 2, 2020, the U.S. Trade Representative (USTR) announced the initiation of two investigations under Section 301 of the Trade Act of 1974 into Vietnamese currency [manipulation](#) practices and illegal imports of [timber](#) from Cambodia, Cameroon, and the Democratic Republic of Congo. Retaliatory actions such as additional duties could impact a wide range of imports from Vietnam. Comments are due by Nov. 12, 2020. 85 [Fed. Reg. 63637](#) (Oct. 8, 2020); 85 [Fed. Reg. 63639](#) (Oct. 8, 2020).

CANADIAN DRUGS

FDA has published a Final Rule on the importation of certain prescription drugs from Canada. The purpose of the program is to reduce drug costs to American consumers. The Final Rule sets forth requirements necessary for a sponsor to demonstrate that their importation program poses no additional risk to public health and safety. Contact [Sean Murray](#) with questions. 85 [Fed. Reg. 62094](#) (Oct. 1, 2020).

GAO SECTION 232 REVIEW

The General Accountability Office (GAO) has released a detailed [report](#) on the Section 232 product exclusion application and review process. The report identifies significant issues with the process. The GAO has directed the BIS to address a significant backlog of exclusion requests. Clients should continue to carefully monitor this subject. [GAO-20-517](#) (Aug. 20, 2020).

AES FOR PUERTO RICO

On September 17, Census published a Proposed Rule to eliminate Automated Export System (AES) filings on shipments between the United States and Puerto Rico and the U.S. Virgin Islands. Comments are due by November 16. 85 [Fed. Reg. 58016](#) (Sept. 17, 2020).

CUSTOMS BOND DECREASES

Clients should review their customs bonds for potential decreases due to the downturn in import activity in 2020/2021.

CBP FEE INCREASES

On October 1, the maximum Merchandise Processing Fee per entry increased 8.9% to \$528.33, an increase of \$19. The informal entry fee increased to \$2.18, manual entry fees changed to \$3.27 and dutiable mail fees increased to \$5.99. CSMS [#44153809](#) (Sept. 19, 2020).

FALL SEMINAR TRAINING

You can still sign up for Import/Export 201. Due to COVID-19 our fall training seminar will be conducted by webinar only.

· Import/Export 201 - Oct. 27-29

More detailed information is posted on our website. Visit our website [www.millerco.com](#) to register or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

FTZ E-214 PHASE 2

On September 26, 2020, U.S. Customs and Border Protection (CBP) deployed Phase 2, Release 2 of the electronic Foreign Trade Zone (FTZ) admission applications. New functionality includes the ability to request a Post Admission Correction (PAC) after concurrence of the e-214 while maintaining the Admission and PF date, and the ability to cancel / delete a Permit to Transfer. Further guidance on Zone Status changes is contained in the recently posted [FTZ CATAIR Version 3.0](#) (September 2020). CBP has also issued an ACE E-214 (Phase 2) business process [document](#). 85 [Fed. Reg. 60479](#) (Sept. 25, 2020).

CBTPA RENEWAL

On October 10, President Trump signed a bill (H.R. 991) renewing the Caribbean Basin Trade Partnership Agreement (CBTPA). The CBTPA provides preferential treatment for certain apparel. The renewal is for 10 years and is retroactive to the CBTPA's expiration on September 30. CSMS [#44437979](#) (Oct. 15, 2020).

CENSUS ON MEU EXPORTS

Census has issued [guidance](#) that clarifies the Automated Export System (AES) filing requirements for Military End User (MEU) exports to China, Russia, and Venezuela under the new BIS regulations that went into effect on September 27. BIS has also issued a [FAQ](#) document on the new regulations that discusses AES filing. Contact [Chuck Ballard](#) or [Sean Murray](#) with questions.

CHINA & HONG KONG EXPORTS

There are reports of increased enforcement activity by the Bureau of Industry and Security (BIS) and CBP to confirm that shipments to China and Hong Kong comply with the recent changes in U.S. export restrictions.

HONG KONG SDN GUIDANCE

SECTION 301 CHINA LITIGATION

A [lawsuit](#) filed on September 10 at the U.S. Court of International Trade (CIT) seeks to overturn the China Section 301 duties paid on List 3 and List 4A products. Over 3500 cases have been filed on behalf of companies. The firm filed cases for a number of clients. Contact [Brian Murphy](#), [Sean Murray](#), or [Ryan Thornton](#) with questions. [HMTX Industries LLC v. U.S.](#), CIT Court No. 20-00177 (Sept. 21, 2020).

301 PRODUCT EXCLUSIONS

· On October 2, 2020, the U.S. Trade Representative (USTR) announced extensions for China Section 301 List 1 and List 2 product exclusions set to expire on October 2, 2020. 85 [Fed. Reg. 62786](#) (Oct. 5, 2020); 85 [Fed. Reg. 62782](#) (Oct. 5, 2020).
· On October 7, 2020, the USTR announced amendments to three China Section 301 List 3 and List 4A product exclusions. 85 [Fed. Reg. 63332](#) (Oct. 7, 2020); 85 [Fed. Reg. 63330](#) (Oct. 7, 2020).

FORCED LABOR/WROS

Forced labor concerns have become a high priority for CBP and clients may find shipments targeted for review:
· CBP has [issued](#) a Withhold Release Order (WRO) on palm oil and palm oil products made with forced labor in Malaysia by FGV Holdings Berhad and its related parties.
· CBP has [issued](#) five WROs on products imported from China based on forced labor concerns.

STEEL IMPORT MONITORING

As reported in the September issue of Briefings, the changes to the Commerce Department's steel import monitoring program went into effect on October 13. Among other changes, the scope of the monitoring program was expanded to cover all steel products subject to the Section 232 additional tariffs. CSMS [#44431782](#) (Oct. 13, 2020).

ALUMINUM SHEET AD/CVD

The Commerce Department has [issued](#) affirmative preliminary antidumping determinations for imports of common alloy aluminum sheet from 18 countries and affirmative preliminary countervailing duty determinations for 4 countries. The 18 official antidumping notices appeared in the October 15 [Federal Register](#). CBP will collect cash deposits from importers of common alloy aluminum sheet from the countries

BOYCOTT LIST

The U.S. Treasury Department has released its current list of countries that require or may require cooperation with an international boycott. The list of nine countries includes the UAE, but Treasury notes that the UAE has announced it is repealing its boycott law. 85 [Fed. Reg. 64615](#) (Oct. 13, 2020).

TIKTOK INJUNCTION

The U.S. District Court for the District of Columbia granted a nationwide preliminary injunction against the implementation of Executive Order 13942 on the TikTok mobile app. On October 8 the U.S. Department of Justice appealed the judge's ruling. Contact [Sean Murray](#) with questions about the EO or current status of restrictions on transactions involving TikTok and ByteDance.

IRAN SANCTIONS

On October 8, the Office of Foreign Assets Control (OFAC) issued a number of new actions on Iran. They include:

- Placing [18 financial institutions](#) on the Specially Designated Nationals (SDN) List;
- [Issuing](#) a new General License (GL) allowing certain transactions with certain Iranian financial institutions blocked due to Executive Order (EO) [13902](#) dated January 10, 2020 and appearing in the [Federal Register](#) on January 14, 2020; and
- Adding 6 FAQs ([842](#), [843](#), [844](#), [845](#), [846](#), and [847](#)) on the GL.

USMCA AUDITS

Clients are encouraged to begin auditing USMCA entries. It is expected that the end of the "informed compliance period" will result in increased CBP scrutiny. Contact [Sean Murray](#) for assistance.

NORTH KOREA TRANSHIPMENT

The Justice Department is [seeking](#) \$955,000 in forfeiture from Ryer International Trading Ltd. and Rensy International Trading Company Ltd., two Chinese companies, for their role in exporting U.S. origin goods to North Korea. The companies are accused of laundering North Korean money and moving ZTE telecommunications products from the U.S. to China, and then to North Korea.

WIRE HARNESS ORIGIN

CBP has ruled that South Korean parts of automobile wire harnesses used for lighting systems were not substantially transformed by assembly in China. No Chinese materials were included in the assembly. HQ [H306810](#) (Sept. 11, 2020).

NMFS TRUSTED TRADER

The Commerce Department announced on September 17 that the National Marine Fisheries Service (NMFS) is formally withdrawing its proposal to create a trusted trader program for seafood importers. The NMFS indicated that the agency underestimated the cost to participate in the program and the benefits to be derived. The issues of how trusted trader programs are structured and their costs and benefits are a continuing concern. 85 [Fed. Reg. 58321](#) (Sept. 18, 2020).

at rates up to 352.71%.

The Office of Foreign Assets Control (OFAC) has issued [guidance](#) that even though certain Hong Kong officials were placed on OFAC's Specially Designated Nationals (SDN) List, exports and sales to Hong Kong are still generally permitted. Exports to Hong Kong agencies where the SDN's work are also permitted provided the transactions do not directly involve persons on the SDN List. OFAC has also issued [General License 2A](#) which allows wind down operations with XPCC and updated some [frequently asked questions](#).

INTL CRIMINAL COURT

OFAC has issued a Final Rule with sanctions on the International Criminal Court. These sanctions are the result of a June 11 [Executive Order](#). 85 Fed. Reg. [61816](#) (Oct. 1, 2020).

AES VIOLATION

On September 16, the Justice Department [announced](#) that a Florida woman had pled guilty to falsifying Automated Export System (AES) documentation to hide the true end user of seven combat rubber raiding craft and engines designed to be launched from submarines. The woman stated the boats were going to an end user in Hong Kong when in fact they were destined to China. She faces up to 15 years in prison.

CUBAN REGULATIONS

OFAC has issued a Final Rule effective September 24 that updates the Cuban Assets Control Regulations (CACR). Changes include additional restrictions on staying in hotels in Cuba. The State Department has issued a [list](#) of 433 hotels that are restricted. Increased restrictions were also added to professional meetings or conferences. General Licenses for public performances, clinics, workshops, and competitions were also eliminated. The new rule also restricts the importation of tobacco and liquor from Cuba, even for personal use. 85 [Fed. Reg. 60068](#) (Sept. 24, 2020).

TECH INFO RELEASE

The Justice Department [announced](#) on September 16 that Si Mong Park, a U.S. citizen, was sentenced to 21 months in prison for sharing technical information with potential South Korean defense customers without the required license.

RARE EARTH MINERALS

On September 30, President Trump [issued](#) an Executive Order (EO) aimed at reducing the U.S. dependence on China for rare earth and other critical minerals. The EO directs government agencies to provide reports and evaluate whether additional mining can be conducted in the U.S. Import restraints could be imposed on Chinese rare earth minerals.

IMPORT FALSE CLAIMS

Linde Engineering North America, LLC has [agreed](#) to pay the U.S. more than \$22.2 million to resolve allegations of knowingly making false statements on Customs declarations by misrepresenting the merchandise, classification, and valuation, as well as the applicability of antidumping and countervailing duties (AD/CVD) and free

at rates up to 352.71%.

RECONCILIATION

On September 30, the Office of Inspector General of the Department of Homeland Security issued a [report](#) critical of CBP management of the Reconciliation process. The report concluded that CBP does not always validate customs values reported by importers and importers were not required to substantiate the information provided. Clients using the Reconciliation program should expect increased oversight.

OFAC SETTLEMENT

On September 17, the Office of Foreign Assets Control (OFAC) [announced](#) it had reached a [settlement agreement](#) with Comtech Communications under which Comtech will pay \$894,111 for violating the Sudanese Sanctions Regulations (SSRs). Comtech had allegedly provided warranty and other advisory services to a Sudanese government entity in violation of the SSRs.

FTZ SAVINGS

Clients are reminded in these very difficult times that it is important to identify the savings generated by your FTZ project. If you need assistance, we have further refined our FTZ Savings Memorandum and Spreadsheet. During our recent FTZ 201 training we produced detailed slides identifying significant additional FTZ savings opportunities. Contact [Scott Taylor](#) for copies of both documents.

ACQUISITION ISSUE

The Office of Foreign Assets Control (OFAC) [announced](#) on September 24 that it had reached a [settlement agreement](#) with Keysight Technologies for \$475,000 after Keysight's new subsidiary in Finland continued to provide test equipment to Iranian end users after it was acquired. The new acquisition hid the transactions from Keysight management in an effort to "preserve the credibility in local markets."

COMPUTER COMPANY CHARGED

The Justice Department [announced](#) on September 21 that it was charging Mr. Padula Syed, the owner of Chicago-based BSI USA, a computer reseller, with selling computers to Pakistan's Atomic Energy Commission. Mr. Syed is also accused of falsifying end use information to suppliers and submitting false information in the Automated Export System (AES).

COUNTERFEIT N95 MASKS

Boston CBP [announced](#) on September 17 the seizure of 20,400 counterfeit N95 respirator masks. There have been many reports on a wide range of counterfeit Personal Protective Equipment (PPE) imports.

CUBAN VIOLATION

On October 1, the Office of Foreign Assets Control (OFAC) announced a settlement [agreement](#) with General Global Assistance Inc. (GGAI) whereby GGAI agreed to remit \$5,864,860 for violations of the Cuban Assets Control Regulations (CACR). GGAI voluntarily disclosed to OFAC that it referred Cuba-

AG USE EXEMPTION

CBP has ruled that an article that controls a device so it sprays cows only when they are near the spraying unit is properly classified under subheading 8481.80.90 (2%) and is subject to China 301 additional duties of 25%. However, since the device is used solely for agricultural purposes, it qualifies for duty free treatment under subheading 9817.00.50. HQ [H307904](#) (Sept. 15, 2020).

RANSOMWARE

On October 1, the Office of Foreign Assets Control (OFAC) issued [guidance](#) related to paying entities that are holding software systems hostage. OFAC will review license applications to a Specially Designated National (SDN) to pay-off a ransomware attack, although there is a presumption of denial.

IRAN AND WMD SANCTIONS

OFAC made minor adjustments to the Iranian Transaction and Sanctions Regulations (ITSR) and the Weapons of Mass Destruction Proliferators Sanctions (WMD), effective October 1. The ITSR was modified to refine a general license that authorizes certain transactions with United Nations (UN) organizations. The WMD was modified to show how some Specially Designated Nationals relating to North Korea are identified and that engaging in certain transactions may result in secondary sanctions. 85 [Fed. Reg. 61823](#) (Oct. 1, 2020).

NIGHT VISION

The Justice Department [announced](#) on September 23 that a production engineer working for Harris Corporation pled guilty to stealing International Traffic in Arms Regulations (ITAR) controlled night vision equipment and components and selling them over the internet. He faces a \$250,000 fine and up to 10 years in prison.

MORE NEW IRAN SANCTIONS

On September 21 President Trump issued a new [Executive Order](#) (EO) that places further sanctions on Iran. The EO [authorizes](#) the U.S. to impose sanctions on any person or entity that assists in the transfer of conventional weapons to or from Iran. A number of new entities and persons to were added to the Bureau of Industry and Security (BIS) Entity List and new [sanctions](#) were imposed by the State and Treasury Departments, including 13 new [additions](#) to the Office of Foreign Assets Controls (OFAC) Specially Designated Nationals (SDN) List. The State Department has also issued a [fact sheet](#) that describes the new sanctions.

trade agreements.

UNVERIFIED LIST

BIS has issued a Final Rule modifying the Unverified List to remove 40 entities, mostly from China and Hong Kong, and add 26 entities from 9 different countries. 85 [Fed. Reg. 64014](#) (Oct. 9, 2020).

ITAR SEE-THROUGH RULE

On October 5, the Directorate of Defense Trade Controls (DDTC) issued new [guidance](#) on the International Traffic in Arms Regulations (ITAR) "see-through" rule. The guidance reminds exporters that ITAR rules still apply even if an ITAR controlled product is integrated into an otherwise commercial product. The ITAR controlled product does not lose its identity in those circumstances. Contact [Chuck Ballard](#) or [Sean Murray](#) with questions.

ELECTRIC BIKES COO

CBP has ruled that the country of origin of electric bikes is based on the frame. CBP indicated that the frame was mostly finished when it arrived for final assembly and gave the bike its overall shape, size, and character. HQ [H312767](#) (Sept. 24, 2020).

BRAZILIAN STEEL RELIEF

The BIS has issued a Temporary Final Rule for imports of certain steel articles from Brazil for parties with preexisting contracts that meet specified criteria. This Temporary Final Rule is effective from October 13 to December 31, 2020. 85 [Fed. Reg. 64377](#) (Oct. 13, 2020).

EPA PROPOSES NEW SNURs

The Environmental Protection Agency (EPA) has proposed new reporting requirements for 45 chemicals under Significant New Use Rules (SNUR). Under the new rules, the EPA requires at least 90 days advance notice of any new use by importers, manufacturers, or processors, as well as export notification requirements. Comments are due November 9. 85 [Fed. Reg. 64280](#) (Oct. 9, 2020).

PROLIFERATION ACTIVITIES

The U.S. State Department has announced that it was placing licensing and government procurement restrictions on 11 entities and one person for their failure to comply with U.S. regulations and multilateral agreements relating to proliferation activities. The ban took effect on September 23 but was not announced until October 2. Most of the entities were already on a restricted parties list. The State Department restrictions will remain in effect for two years. 85 [Fed. Reg. 62781](#) (Oct. 5, 2020).

related disbursements to its Canadian office to avoid processing payments to Cuban entities in the U.S. GGAI then reimbursed its Canadian office for those payments. The process was even included in GGAI's procedure manual.

SURVEILLANCE EQUIPMENT

On September 30, the State Department issued [guidance](#) and "red flags" for companies that sell or export surveillance equipment outside the United States.

TOY CLASSIFICATION

CBP has ruled that plastic three dimensional representations of the heads of various animated characters designed to hold a lollipop are children's toys classified in Heading 9503 as opposed to other articles of plastic in Heading 3926 because the amusement function exceeds its function as a lollipop holder. HQ [H308907](#) (Oct. 2, 2020).

NEW CRIME CONTROL RULES

BIS has issued new regulations related to water cannons and parts and components thereof that are made for and used in riot control. 85 [Fed. Reg. 63009](#) (Oct. 6, 2020).

CUSTOMS BROKER HACKED

An article in the October 9 edition of Freight Waves stated that Daniel B. Hastings, a Laredo, Texas based customs broker, appeared to have been hacked by an organization calling itself "Conti." Conti posted various files allegedly taken from the broker on the internet. This is a reminder that clients need to ensure that they and their agents have appropriate cybersecurity safeguards in place.

BELARUSIAN SANCTIONS

OFAC has [sanctioned](#) 8 Belarusian nationals for their role in the fraudulent Belarusian election. Entities more than 50% owned by these individuals are also sanctioned.

FTZ STATS

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 10/15/2020

| | Approved | Currently Authorized |
|----------------|----------|----------------------|
| Zones | 294 | 276 |
| Subzones | 856 | 702 |
| Pending | | |
| Zones | 3 | |
| Subzones | 12 | |
| Misc. | 35 | |

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: intlaw@millerco.com
www.millerco.com

THE MATERIAL CONTAINED HEREIN IS NOT TO BE CONSTRUED AS LEGAL ADVICE OR OPINION. MORE INFORMATION MAY BE OBTAINED BY CONTACTING ANY ATTORNEY WITHIN THE FIRM.

© 2020 Miller & Company P.C.