



## SECTION 232 EXCLUSIONS

Effective December 14, the Bureau of Industry and Security (BIS) has issued a new Interim Final Rule that revises the process for requesting exclusions from the additional duties and quantitative limitations on imports of aluminum and steel authorized by President Trump under Section 232 of the Trade Expansion Act of 1962. A significant change is the creation of General Approved Exclusions (GAEs) that may be used by any importer. Comments on the rule are due by February 12, 2021. Contact [Brian Murphy](#) or [Sean Murray](#) with questions or for assistance with exclusion requests. 85 Fed. Reg. [81060](#) (Dec. 14, 2020).

## CHINA SECTION 301 LITIGATION

Over 3,600 cases have been filed in the U.S. Court of International Trade (CIT) challenging China Section 301 Lists 3A and 4 duties since the original HMTX filing. Plaintiffs' counsel, the Government, and the CIT still need to adopt case management procedures and alternative service procedures. Contact [Brian Murphy](#) or [Sean Murray](#) with questions or to discuss filing a case.

## GOLF CLUBS USMCA & CHINA

CBP has ruled that golf clubs assembled in Mexico from titanium heads manufactured in Taiwan and carbon fiber shafts from China must be marked as products of both countries, with the value of the shaft subject to Section 301 tariffs. CBP reasoned that the golf clubs do not undergo a substantial transformation in Mexico nor the required USMCA tariff shift, and both the shaft and head give the golf clubs their essential character. [HQ H312495](#) (Dec. 2, 2020).

## FDA FTZ WEEKLY ENTRY

The Food and Drug Administration (FDA) has issued a new Compliance Policy Guide Section [110.650](#) on FDA FTZ Weekly Entry Filing (WEF). The FDA has indicated that the policy guide reflects pre-existing practice, but WEF users should note that the FDA states it may ask CBP to order redelivery of items where WEF was improperly claimed. Contact [Sean Murray](#) with questions.

## UK-U.S. TARIFFS/BREXIT

As the United Kingdom prepares for Brexit on January 1, 2021, UK International Trade Secretary Liz Truss announced on December 8 that the UK would continue retaliatory tariffs in response to the U.S. Section 232 tariffs on aluminum and steel products. The Department for International Trade will launch consultations with the U.S.

As it works toward a trade deal



Seasons Greetings &  
Best Wishes for a  
Happy New Year!

## 2020 IMPORT/EXPORT DATA

Calendar year 2020 is quickly coming to an end and it appears that 2021 could be a year of potentially significant changes to U.S. imports/exports. Calendar year import/export data analysis can help a company proactively anticipate and calculate the impact of potential changes. Contact [Brenda Zeller](#) to get on our order list for your company's 2020 U.S. government import and/or export data and reports.

## 2020 HTS MODIFICATIONS

The U.S. International Trade Commission (ITC) has published a Notice of proposed recommendations and changes to the Harmonized Tariff Schedule of the United States (HTSUS) based on 2019 World Customs Organization recommendations. The [350](#) changes include 3D printers, drones (UAVs), smartphones, electric vehicles, cell therapy products, and blanched peanuts. Clients are encouraged to review the ITC source document and the concordance tables. 85 Fed. Reg. [73294](#) (Nov. 17, 2020).

## 2022 HS TARIFF CHANGES

The World Customs Organization (WCO) has [released](#) correlation tables comparing the upcoming 2022 version of the Harmonized System tariff schedule with the 2017 version. The tables provide guidance on the changes scheduled on January 1, 2022. Clients are urged to carefully review.

## YEAR-END DUTY REDUX

U.S. Customs and Border Protection (CBP) has authorized Immediate Delivery (ID) procedures for merchandise to be released between December 16 and December 31. These ID procedures allow entry filers to take advantage of HTS changes that take effect on January 1, 2021. CSMS [#45160636](#) (Dec. 14, 2020).

## AD/CVD SCOPE RULINGS

The Commerce Department has published a list of scope rulings and anti-circumvention determinations made from July 1, 2020 through September

## YEAR-END DECISIONS

- 301 Product Exclusion Strategy
- [515](#) product exclusions representing 96.4% of the total exclusions remaining in effect expire December 31.
- [19](#) product exclusions expire March 25/April 18, 2021.
- The Generalized System of Preferences (GSP) expires December 31 and it is unlikely to be renewed this year. Detailed guidance was provided in the November [Briefings](#).
- The Miscellaneous Trade Bill (MTB) expires December 31. The likelihood of renewal this year is slim. Clients with FTZ on-hand inventory have multiple options for use in production or warehousing. A Privileged Foreign (PF) status election is an option for warehoused inventory. Contact [Marshall Miller](#) for guidance.

## SWISS, VIETNAM CURRENCY

The Treasury Department has [named](#) Switzerland and Vietnam as currency manipulators in its December 2020 report to Congress on the macroeconomic and foreign exchange policies of major U.S. trading partners. It is unclear whether this designation will have a direct impact on trade with these countries, but the U.S. Trade Representative (USTR) is [already](#) conducting a Section 301 investigation into Vietnam's currency valuation policies. Contact [Marshall Miller](#) or [Sean Murray](#) with questions.

## FORCED LABOR

- On November 30, CBP [issued](#) a Withhold Release Order (WRO) against Xinjiang Production and Construction Corps (XPCC) cotton products based on information that reasonably indicates the use of forced labor, including convict labor. XPCC reportedly produces 1/3 of all cotton in China. The WRO applies to all cotton and cotton products produced by the XPCC and its subordinate and affiliated entities, as well as any products that are made in whole or in part with or derived from that cotton, such as apparel, garments, and textiles. WRO [#42](#) (Nov. 30, 2020).
- On November 19, the Office of Foreign Assets Control (OFAC) [sanctioned](#) two entities involved in the exportation of forced labor from North Korea: Mokran LLC, a Russian construction company, and Korea Cholsan General Trading Corporation, a North Korean company operating in Russia.

## HONG KONG SANCTIONS

- On December 7, U.S. Secretary of State Mike Pompeo [announced](#) that the U.S. was imposing sanctions on 14 members of China's National People's

with the U.S., the UK announced that on January 1 it will [suspend](#) retaliatory tariffs against the U.S. in the Airbus-Boeing dispute of 15% on U.S. aircraft and 25% on more than 100 products, notably agricultural, food and beverage items, including chocolate, ketchup, rum, vodka, frozen orange juice, and equipment such as tractors, firetrucks and exercise equipment.

### CANADIAN DRUG EXPORT BAN

In July President Trump signed Executive Order [45759](#) allowing the legal importation of cheaper drugs from Canada. Canadian Health Minister Patty Hajdu [announced](#) on November 29 that to protect the country's drug supply, Canada would bar the export of certain drugs from Canada. 85 [Fed. Reg. 45759](#) (July 29, 2020).

### TURKEY SANCTIONS

On December 14, the State Department [announced](#) that it was imposing sanctions on Turkey's Presidency of Defense Industries (SSB) and several of its senior executives related to Turkey's purchase of the S-400 surface-to-air missile system from Russia. The sanctions include a prohibition on licenses for exports or technology transfers to SSB and certain financial restrictions.

### CHINA 301 EXCLUSION

On November 18, the U.S. Trade Representative (USTR) announced a technical correction to a previously granted Section 301 product exclusion for natural or liquid propane gas, effective July 31, 2020 to December 31, 2020. 85 [Fed. Reg. 73590](#) (Nov. 18, 2020).

### IRAN FAQ GUIDANCE

On December 7, OFAC issued two frequently asked questions (FAQs) related to the enhanced secondary sanctions imposed upon Iran. FAQ [855](#) clarifies that official actions by the United Nations and some other international agencies are not subject to the secondary sanctions. FAQ [856](#) clarifies that legal fees payments related to Iran's participation in international tribunals and certain legal proceedings in Iran are typically authorized. OFAC has also updated FAQs [830](#), [831](#), [832](#), and [847](#) relating to humanitarian aid and certain definitions.

### COVID-19 EUAS

On November 19, the Food and Drug Administration (FDA) released a list of Emergency Use Authorizations (EUAs) for medical devices due to the COVID-19 pandemic. Contact [Sean Murray](#) with questions. 85 [Fed. Reg. 74346](#) (Nov. 20, 2020).

### PLASTIC HANGERS RULING

CBP has ruled that certain plastic hangers used to hold imported clothing are classified based on the clothing being held. [HQ H310124](#) (Sept. 22, 2020).

### FTZ CATAIR UPDATE

An update was made on December 3 to the Draft ACE Entry Summary Create/Update CATAIR for the FTZ Identifier format change. Deployment is scheduled for December 22, 2020 for Certification and January 23, 2021 for Production. CSMS #[45116249](#) (Dec. 9, 2020).

30, 2020. Clients are reminded that scope rulings may allow you to avoid AD/CVD duties. Contact [Brian Murphy](#) with questions. 8 5 [Fed. Reg. 77434](#) (Dec. 2, 2020).

### US SANCTIONS IRANIANS

On November 18, the Office of Foreign Assets Control (OFAC) [announced](#) that it was adding approximately 160 persons and entities that are a patronage network for the Supreme Leader of Iran to the Specially Designated Nationals (SDN) List.

### ACE PORTAL ACCOUNT

· Clients without a CBP Automated Commercial Environment (ACE) portal account should create one. We can provide assistance/instructions on setting up an ACE account. Once activated, we can assist in accessing data and running reports to further increase your company's overall visibility and compliance efforts. Please contact [Brenda Zeller](#) for details.

· ACE Reports Videos and Quick Reference Cards have been updated to a new format, and two new topics have been added that allow users to paste a list of values into reports and set dates to update dynamically for regularly recurring reports. Contact [Brenda Zeller](#) with questions. CSMS #[45115570](#) (Dec. 9, 2020).

### APHIS CORE

· Beginning on December 7, the APHIS Core Message Set was enforced in the ACE Certification environment. It will be enforced in the ACE Production environment beginning January 25, 2021. Filers will have to submit an APHIS Core Message Set for tariff classifications flagged in ACE Entry Summary for Cargo Release (AE), ACE Cargo Release (SE), and PGA Corrections (CA) transactions. CSMS #[44840710](#) (Nov. 12, 2020).

· The ACE APHIS Core Message Set will not apply when products are admitted to or transferred out of an FTZ. The current paper process will be followed when a shipment arrives at the port. Type 06 entries are exempt from the APHIS Core Message Set since the APHIS data was previously submitted upon arrival. Contact [Linda King](#), [Lori Hessler](#), or [Elicia Snyder](#) for details.

### EU-US TARIFF PACKAGE

On November 18, the European Council approved a tariff [package](#) that eliminates customs duties on U.S. lobster imports in exchange for reduced U.S. duties on several European Union products, including prepared meals, crystal glassware, surface preparations, and propellant powders. The package would be the first EU-U.S. tariff reduction in two decades and could increase market access for both EU and U.S. traders by about \$240 million. The package requires European Parliament approval. If enacted, it would apply retroactively from August 1, 2020 for five years.

### EAPA LAWSUIT

An importer has filed a [lawsuit](#) challenging the Enforce and Protect Act (EAPA) and CBP's procedures and regulations for EAPA investigations. It alleges that the law and CBP's processes and actions deprived it of its

Congress passing a bill based on their actions to restrict Hong Kong's democratic processes. China retaliated by revoking visa exemptions for U.S. diplomatic passport holders visiting Hong Kong and Macau and by sanctioning some additional U.S. politicians.

· China previously announced that it was imposing sanctions on four persons at the National Endowment for Democracy (NED) and the National Democratic Institute (NDI) because of their links to U.S. democracy promotion efforts.

### IRAN-CHINA SANCTIONS

The State Department has issued Notices that it is reimposing certain sanctions on several Chinese entities/individuals for intentionally engaging in significant transactions for the purchase, acquisition, sale, transport, or marketing of Iranian petroleum or petroleum products. The sanctioned entities and individuals are being placed on the OFAC Specially Designated Nationals (SDN) List and prohibited from engaging in any foreign exchange subject to U.S. jurisdiction, receiving credit from a U.S. person or entity, having a U.S. person or entity invest in their assets, and importing goods, technology, or services into the U.S. 85 [Fed. Reg. 81261](#) and [81262](#) (Dec. 15, 2020).

### ARMS TECH VIOLATION

A U.S. federal district court judge has [sentenced](#) a former Raytheon engineer to 38 months in prison for [knowingly](#) taking defense-related technical information, including data associated with an advanced missile guidance system, in his company-issued computer on a personal trip to China.

### AIRBNB VIOLATIONS

Reminding of the need for robust screening, the Office of Foreign Assets Control (OFAC) has [received](#) a voluntary self-disclosure from Airbnb involving OFAC Specially Designated Nationals, potential violations involving Crimea, and potential Cuban sanctions violations.

### JEWELRY IMPORTER CASES

· The U.S. Department of Justice [announced](#) on December 8 that former jewelry importer TSI Accessories Group, Inc. (TSI) will pay \$402,637 to resolve allegations that it violated the False Claims Act by declaring on entries the number of display cards imported rather than the number of individual earrings, which allowing them to pay duties at a lower rate.

· Importers Roman & Sunstone LLC, ISTAR Jewelry LLC, Ansun Inc., and Starkes Gems Inc. will pay \$866,068 to resolve False Claims Act [allegations](#) that they improperly concealed the number and value of jewelry imports through substantially the same practices as TSI.

· Both settlements arose from lawsuits filed by a whistleblower under the False Claims Act, which allows private parties to bring suit on behalf of the government and share in any recovery.

### EAR UPDATES/CORRECTIONS

· The Bureau of Industry and

### WHOOPIING STRAP ORIGIN

CBP has issued a Final Determination for government procurement purposes that China is the country of origin of a Whoop Strap fitness tracker wearable assembled in China and it is not substantially transformed by post-importation programming in the United States. 85 Fed. Reg. [80798](#) (Dec. 14, 2020).

### NEW U.S. TRADE AGREEMENTS

On December 8, Ecuador and the U.S. [signed](#) an agreement on trade rules and transparency. The [agreement](#) includes provisions on customs, regulations, anti-corruption, and small/medium sized companies. The consensus is that significant work still needs to be done to reach a broader trade agreement.

On November 20, Taiwan and the U.S. [signed](#) an [agreement](#) highlighting key areas of cooperation, including 5G communications, semiconductors, Infrastructure, and the Indo-Pacific.

### VEHICLE TRACKERS

CBP has issued a Final Determination that Canada is the country of origin of three vehicle tracking devices a satellite communications device, and near field communication (NFC) reader assembled in Canada for U.S. government procurement purposes, while the origin of a NFC keyring fob is determined by the country of origin of its contactless integrated circuit (IC). 85 Fed. Reg. [79204](#) (Dec. 9, 2020).

### CANADIAN DAIRY

The U.S. has initiated the first U.S.-Mexico-Canada Agreement (USMCA) enforcement action. On December 9, U.S. Trade Representative Robert Lighthizer [announced](#) that the U.S. was challenging Canada's allocation of dairy quotas.

constitutional due process rights and protections. Contact [Sean Murray](#) or [Ryan Thornton](#) with questions. [Aspects Furniture Int'l, Inc. v. U.S.](#), CIT Court No. 20-03824 (filed Nov. 4, 2020).

### SECTION 301 & DE MINIMIS

The Treasury Department Fall 2020 Regulatory [Agenda](#) for CBP mentions a proposal to end the Section 321 de minimis exemption for goods subject to Section 301 tariffs. Contact [Marshall Miller](#) with questions.

### DIGITAL SERVICES TAX

France has begun sending collection notices to internet companies for its new Digital Services Tax (DST). The Office of the U.S. Trade Representative (USTR) has previously [identified](#) \$1.3 billion worth of French imports—primarily handbags and cosmetics—that could be hit with a 25% tariff. These retaliatory tariffs could now be imposed.

### PATENT INFRINGEMENT

Jaguar Land Rover (JLR) has filed [suit](#) in the CIT and both Delaware and New Jersey federal courts seeking to ban the importation of Volkswagen, Audi, and Lamborghini crossovers and SUVs due to software patent infringement relating to its Terrain Response off-road system.

### FASHION FAUX PAS

On December 10 a federal grand jury returned a 35-count [indictment](#) alleging in part that a Fashion District importer avoided the payment of more than \$10 million in customs duties on imported clothing by falsely classified goods and under-declaring their value.

### SUDAN

Secretary of State Mike Pompeo [announced](#) on December 14 that the U.S. was removing Sudan from the State Sponsors of Terrorism List. Products and technology controlled only for Anti-Terrorism (AT) purposes will no longer need a license to ship to Sudan.

Security (BIS) has issued a Final Rule updating and clarifying portions of the Export Administration Regulations (EAR) in conjunction with the Export Control Reform Act (ECRA). Changes and clarifications include pre-license checks, post-shipment verifications, authority to investigate violations outside the U.S. and detentions and seizures. It also clarifies that any license obtained through falsification or omission of relevant facts voids the license, extends the time to pay penalties from one year to two, and gives the Director of the Office of Export Enforcement the authority to deny export privileges. 85 Fed. Reg. [73411](#) (Nov. 17, 2020).

BIS has issued a Final Rule to make changes agreed on by the Wassenaar Arrangement. The changes impact Export Control Classification Numbers (ECCNs) 3A001, 3A002, 3A991, 5A002, 7A005, and 9E003. 85 Fed. Reg. [78684](#) (Dec. 4, 2020).

### DDTC REMOTE WORK

The Directorate of Defense Trade Controls (DDTC) has issued a Public Notice extending its temporary changes and exceptions to permit telework during the COVID-19 pandemic to June 30, 2021. 85 Fed. Reg. [79836](#) (Dec. 11, 2020).

### FTZ STATS

#### FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 12/15/2020

	Approved	Currently Authorized
Zones	294	276
Subzones	856	705
Pending		
Zones	3	
Subzones	13	
Misc.	29	

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