



SECTION 301 DEVELOPMENTS

On January 6, 2021, the U.S. Trade Representative (USTR) expanded the products subject to additional duties under the EU Section 301 Large Civil Aircraft action. New products include certain wines, as well as fuselage and fuselage sections, wings and wing assemblies, and horizontal vertical stabilizers. 86 Fed. Reg. [674](#) (Jan. 6, 2021).

On December 28-29, 2020, the USTR held a virtual hearing on the Section 301 investigation into Vietnam's import and use of illegally harvested timber and currency practices. On January 15, 2021, the USTR issued a [report](#) finding that Vietnam's currency practices are actionable under Section 301, but the USTR has declined to take action at this time.

DIGITAL SERVICES TAXES

The U.S. Trade Representative (USTR) has issued [reports](#) on digital service tax (DST) investigations involving [Austria](#), [India](#), [Italy](#), [Spain](#), [Turkey](#), and the [United Kingdom](#). In each case, the USTR found that the DST discriminates against U.S. companies. These findings pave the way for Section 301 duties against products from these countries.

On January 7, 2021, the USTR announced the suspension of proposed duties in response to France's digital services tax. These duties had been scheduled to go into effect on January 6, 2021. Please contact [Brian Murphy](#) with any questions.

232 GENERAL EXCLUSIONS

The 108 General Approved Exclusions (GAE) for steel products and 15 GAEs for aluminum products went into effect on December 29. Contact [Brian Murphy](#) or [Sean Murray](#) with questions. CSMS [#45271041](#) (Dec. 23, 2020).

CHINA PRODUCT EXCLUSIONS

On December 29, 2020, the USTR extended a limited number of China Section 301 product exclusions that were set to expire on December 31, until March 31, 2020. In addition to these extensions, the USTR granted forty-four (44) new product exclusions from China Section 301 Lists 1, 2, 3, and 4A duties. These product exclusions and extensions generally relate to COVID-19 items. 85 Fed. Reg. [85831](#) (Dec. 29, 2020).

On December 31, four hundred thirty-nine (439) China Section 301 product exclusions expired. Products covered by these exclusions are now subject to an additional 7.5% (List 4A) or 25% (Lists 1, 2, and 3) duty.

2021 TRAINING SEMINARS

We had great response to our fall webinars. Due to COVID-19, our spring and fall training seminars will again be conducted by webinar only.

Spring

- FTZ 101 – March 16 – 18
- FTZ 201 – March 23 – 25
- Import/Export 101 – April 13 – 15
- Import/Export 201 – April 20 – 22

Fall

- FTZ 101 – Sept. 14 – 16
- FTZ 201 – Sept. 21 – 23
- Import/Export 101 – Oct. 12 – 14
- Import/Export 201 – Oct. 19 – 21

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

ALUMINUM LICENSES

On December 23, 2020, the Commerce Department issued a Final Rule with regulations creating the Aluminum Import Monitoring (AIM) system. Importers are required to apply for and obtain an import license for covered aluminum products imported into the U.S. through the AIM system website. The AIM website became operational on January 4 and licenses are required for all covered aluminum imports beginning January 25. 85 Fed. Reg. [83804](#) (Dec. 23, 2020).

Aluminum import license numbers must be reported on the e-214 application for FTZ admission at the time of filing. CSMS [#45606692](#) (Jan. 14, 2021).

USMCA ENFORCEMENT

As of January 1, 2021, CBP's "restrained enforcement" policy is no longer in effect for USMCA. Clients should expect active enforcement on USMCA preferential treatment claims. CSMS [#45309245](#) (Dec. 29, 2020).

While the restrained enforcement period ended on December 31, CBP announced that it will allow additional time to respond to CBP Form 28 Requests for Information for automotive goods. CSMS [#45309245](#) (Dec. 29, 2020).

Companies should ensure they have processes in place to ensure the accuracy of their 2021 USMCA certifications. The firm has created a fillable USMCA certification form. Contact [Brian Murphy](#) for a copy.

Clients are encouraged to consider detailed USMCA training. Contact [Sean Murray](#) with questions.

MAJOR ENTITY LIST UPDATES

The Bureau of Industry and Security (BIS) has published a Final Rule that added 77 entities to the BIS Entity List. Among the entities added was SMIC, a major semiconductor manufacturer in China. Not all exports to SMIC are prohibited, but a BIS license is required before any export or transfer to SMIC. In addition to China, other entities were added to the list from Bulgaria, France, Germany, Hong Kong, Italy, Malta, Pakistan, Russia, and the United Arab Emirates (UAE). Contact [Sean Murray](#) with questions. 85 Fed. Reg. [83416](#) (Dec. 22, 2020).

"MADE IN USA" PENALTY

The U.S. Federal Trade Commission (FTC) has requested comments on a proposed consent agreement with superglue maker Chemence, Inc. Under the proposed settlement, Chemence and its company president would pay \$1.2 million to the FTC, the largest-ever monetary judgment for a Made in USA case, for continuing to misrepresent that products were all or virtually all "made in the USA" despite an earlier 2016 settlement and order. Comments are due by February 8, 2021. Contact [Sean Murray](#) with questions. 86 Fed. Reg. [1497](#) (Jan. 8, 2021).

CHINA COTTON/TOMATO WRO

On January 13, 2021, U.S. Customs and Border Protection (CBP) issued a [Withhold Release Order](#) (WRO) for cotton and tomato products produced in China's Xinjiang region. The WRO is based on information that reasonably indicates the use of detainee or prison labor and situations of forced labor. Cotton and tomato products produced in Xinjiang, which may include apparel, textiles, tomato seeds, canned tomatoes, tomato sauce, and other goods made with cotton and tomatoes, will be detained by Customs. Contact [Marshall Miller](#) with questions.

SEAFOOD WRO

On December 31, 2020, CBP issued a [Withhold Release Order](#) (WRO) on tuna and other seafood harvested by the Taiwanese flagged vessel Lien Yi Hsing No. 12. CBP asserts that there is a reasonable indication of forced labor based upon deception, withholding of wages, and debt bondage. Seafood products subject to the WRO will be detained upon importation into the United States.

MALAYSIA PALM OIL WRO

For an update to product exclusion spreadsheet, which includes the effective and expiration dates of China Section 301 product exclusions, contact [Ryan Thornton](#).

CUBA

The State Department [announced](#) on January 11 that it was predesignating Cuba as a State Sponsor of Terrorism. The main impact is that foreign products going to Cuba must have 10% or less U.S. content to be outside U.S. export control jurisdiction. Previously, this limit was 25%.

BOND VISIBILITY IN ACE

We recently discovered that [existing](#) Facility Operators, Foreign-Trade Zone Operators, and Cartmen/Lightermen ACE Portal Accounts that need visibility into their bond data should apply for an "Importer" view by notifying CBP of their request and providing the information noted on the application. Contact [Linda King](#) with questions.

CAATSA FAQs

OFAC has [published](#) new ([869](#), [870](#)) and amended ([545](#), [546](#)) frequently asked questions and amended two other FAQs to clarify sanctions against Russia under the Countering America's Adversaries Through Sanctions Act. The FAQs cover OFAC's non-blocking menu-based sanctions, certain definitions, and other sanctions clarifications.

NEW SYRIAN FAQs

On December 22, OFAC announced that it was adding several Syrian individuals and entities to its Specially Designated Nationals (SDN) List and published three new frequently asked questions (FAQs): [866](#), [867](#), and [868](#).

PROPOSED DHS LEGISLATION

On January 13, 2021, the Department of Homeland Security (DHS) [called](#) for expanded enforcement authority, including increased civil penalties and injunctions, for importers of counterfeit and pirated merchandise. DHS indicates that this proposal is targeted at e-commerce platforms and third-party online marketplaces.

FDA ITACS UPDATE

The Food and Drug Administration (FDA) has announced an improved interface to the Import Trade Auxiliary Communications System (ITACS) that provides updated contact information on FDA import offices and port codes. CSMS [#45530080](#) (Jan. 13, 2021).

OFAC UBAF BANK PENALTY

OFAC announced on January 4 that it had reached a [settlement agreement](#) with Union de Banques Arabes et Françaises (UBAF), a French bank that was alleged to have funneled funds from restricted Syrian banks through the U.S. financial system. Under the terms of the settlement, UBAF agreed to remit \$8,572,500.

DRIVER HEADS-UP DISPLAY

CBP has determined that a heads-up display (HUD) designed to provide limited, easily understood information in a location that does not require the driver to avert their eyes from the road is properly classified in HTSUS subheading

USMCA TECH CORRECTIONS

On December 27, 2020, the Consolidated Appropriations Act of 2021 became law. It includes multiple updates to the USMCA to restore NAFTA provisions inadvertently not included in the USMCA, including Merchandise Processing Fee (MPF) refunds on post-importation claims and NAFTA Rules of Origin restrictions of FTZs not allowing duty free U.S. entry. The provisions are retroactively effective as of July 1, 2020. Contact [Marshall Miller](#) with questions.

HONG KONG

In response to China's actions to undermine Hong Kong's autonomy, the Bureau of Industry and Security (BIS) has issued a Final Rule that eliminates Hong Kong as a specific destination. Effective December 23, Hong Kong is considered part of China from an export control standpoint. 85 Fed. Reg. [83765](#) (Dec. 23, 2020).

CHINESE MILITARY COMPANIES

On December 28, the Office of Foreign Assets Control (OFAC) published a list of companies believed to be involved in [financing and expanding](#) Chinese military capabilities. In addition, OFAC published 5 new frequently asked questions (FAQs): FAQ [857](#), FAQ [858](#), FAQ [859](#), FAQ [860](#), and FAQ [861](#).

OFAC has added FAQs [862](#) and [864](#) related to [Executive Order 13959](#) restricting transactions with companies supporting China's military.

The Department of Defense (DOD) has [added](#) Xiaomi Corp., a major Chinese cellphone and electronics producer, and 8 other companies to its list of "Communist Chinese Military Companies."

The Commerce Department has [added](#) the Chinese National Offshore Oil Corp. (CNOOC) to the Entity List based on its activities in the South China Sea. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions.

MEU LIST

On December 23, the Bureau of Industry and Security (BIS) issued a Final Rule establishing a new "Military End User" (MEU) List. Exports, transfers, or reexports to entities on this list require a BIS license before technology or products are provided to one of these entities. Entities on the MEU List are not subject to a complete export ban, but they are subject to a "presumption of denial" license review policy. Clients should note that the MEU List is not an exhaustive list. Any export that has or appears to have a military end use is a "red flag" and additional reviews need to be made. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions. 85 Fed. Reg. [83793](#) (Dec. 23, 2020).

NEW CHINESE APP BANS

President Trump has issued a new Executive Order (EO) banning certain transactions with Chinese apps Alipay, CamScanner, QQ Wallet, SHAREit, Tencent QQ, Vmate, WeChat Pay, and WPS Office. The ban applies to U.S. persons and bans transactions with persons that develop or control the

On December 30, 2020, CBP announced a [Withhold Release Order](#) (WRO) for palm oil and products containing palm oil produced by Sime Darby Plantation and its subsidiaries, joint ventures, and affiliated entities in Malaysia.

UK/CANADA FORCED LABOR

On January 12, 2021, the [United Kingdom](#) (UK) and [Canada](#) made parallel announcements intended to address forced labor imports from Xinjiang, China.

BREXIT TRADE DEAL

On January 1, 2021, a trade [agreement](#) went into effect between the United Kingdom (UK) and European Union (EU). The agreement presents a number of issues that will require consideration for importers engaged in UK-EU trade.

UK distribution hubs may face difficulty avoiding EU tariffs on merchandise imported into the UK and returned to the EU without modification.

UK automobile manufacturers will be required to meet specific UK origin requirements for gasoline and electric vehicles to avoid EU tariffs.

The UK has issued its own "UK Global Tariff" with Most Favored Nations (MFN) rates and new requirements and guidance on post-Brexit UK imports and exports. The World Trade Organization (WTO) issued a [communication](#) on December 31 that summarizes many of the UK's commitments, including to the WTO Information Technology Agreement and Agreement on Trade in Pharmaceutical Products.

US/UK CUSTOMS AGREEMENT

On December 16, the U.S. and UK [signed](#) the Customs Mutual Assistance Agreement (CMAA) to improve information sharing, strengthen the enforcement of customs laws, and bolster supply chain security while facilitating the flow of legitimate trade.

US/EU LIMITED AGREEMENT

Pursuant to Presidential Proclamation 10128, the HTSUS has been modified to reduce duty rates on certain EU products in accordance with the November 20, 2020 limited trade agreement between the U.S. and EU. The changes and reduced duty rates are retroactively effective to August 1, 2020. Clients should consider post-entry filings to claim duty refunds on eligible products. 85 Fed. Reg. [85491](#) (Dec. 29, 2020).

UPDATED DRAWBACK CATAIR

The Drawback/TFTEA Drawback Create/Resubmission CATAIR has been updated to reflect USMCA requirements for drawback. The changes will be deployed to the Production (PROD) environment on March 13, 2021. CSMS [#45195422](#) (Dec. 17, 2020).

COVID PPE IMPORT REPORTS

The Commerce Department Office of Textiles and Apparel is providing a new monthly [report](#) on imports of personal protective equipment (PPE) related to the response to COVID-19. The reports cover twenty-three (23) 10-digit Harmonized Tariff Codes for plastic, rubber, paper, and textile-related PPE.

8531.80.90 (Free) as “other” electric signaling apparatus. [HQ H304224](#) (Dec. 3, 2020).

PIPE SPOOLS IMPORT GUIDANCE

CBP has issued complicated and problematic new guidance on the entry of pipe spools. To properly report the applicable Section 232, Section 301, and/or AD/CVD duties, entry filers are required to break out each component of the pipe spool by the country of origin on a separate entry/entry summary line. When the HTS classification requires a license under the Steel Import Monitoring and Analysis (SIMA) Program, a license is required for each entry summary line reporting that HTS classification. Contact [Brian Murphy](#) with questions. CSMS [#45298596](#) (Dec. 28, 2020).

CRAFT BEVERAGES

The Craft Beverage Modernization Act (CBMA) was extended permanently, effective January 1, 2021. CBP will continue to administer CBMA for imports of covered distilled spirits, beer, and wine for 2021-2022, but CBMA administration will transfer to the Treasury Department after December 31, 2022. Under the CBMA, reduced tax rates and/or tax credits are applicable to imports of certain quantities of distilled spirits, beer, and wine. CSMS [#45315560](#) (Dec. 30, 2020).

DRC COUNTRY DESIGNATION

Based on economic, legal, and political improvements, President Trump has reinstated the Democratic Republic of Congo (DRC) as a “lesser developed beneficiary sub-Saharan country” under the African Growth and Opportunity Act (AGOA). 85 Fed. Reg. [85491](#) (Dec. 29, 2020).

apps. The ban goes into effect in 45 days (on February 19, 2020). 86 Fed. Reg. [1249](#) (Jan. 5, 2021).

VACCINE CONTROLS UPDATE

BIS has issued a Final Rule which clarifies that many vaccines containing viruses or pathogens are still vaccines as described in ECCN 1C991. It also added new controls for vaccines against certain toxins and clarified or added other definitions and details. 86 Fed. Reg. [944](#) (Jan. 7, 2021).

CHEMICAL CONTROLS

BIS has published a Final Rule to amend the Chemical Weapons Convention Regulations (CWCR) and the Export Administration Regulations (EAR) to add three chemical families, add one individual chemical, and clarify the definition of “production.” 86 Fed. Reg. [936](#) (Jan. 7, 2020).

ROBOTIC WORKSTATIONS

CBP has ruled that, based on its principal function, a robotic multi-station system used for conveying and assembling engines is classified in HTS subheading 8479.89.98 (2.5%) as “machines and mechanical appliances having individual functions not specified or included elsewhere” instead of in Heading 8428 (Free) as lifting and handling machinery. HQ [H304598](#) (Oct. 2, 2020).

FTZ PRODUCTION AUTHORITY

On December 28, 2020, the U.S. Foreign Trade Zones Board denied a request for authority to produce blended syrup from ex-quota sugar. Clients are reminded that FTZ sugar operations are complex. Contact [Scott Taylor](#) with questions. 85 Fed. Reg. [86903](#) (Dec. 31, 2020).

CIVIL PENALTIES INCREASE

The Commerce Department has issued a Final Rule, effective January 15, that increased certain civil penalties for inflation. This includes penalties issued under the Foreign Trade Zones Act, False Claims Act, and multiple export laws. 86 Fed. Reg. [1764](#) (Jan. 11, 2021).

e214 FTZ ADMISSIONS

The deployment of the expanded zone identification numbers on electronic Foreign Trade Zone admission applications (e214s) has been delayed until April 25, 2021. 86 Fed. Reg. [1116](#) (Jan. 7, 2020).

STEEL/ALUMINUM 232 QUOTAS

Clients are reminded that certain Section 232 iron, steel, and aluminum products from Argentina, Brazil, and South Korea are subject to quota limits. CBP has issued Q1 quota information for steel articles (Quota Bulletin [21-601](#)) and aluminum articles (QB [21-701](#)). CSMS [#45300806](#) (Dec. 28, 2020); CSMS [#45300978](#) (Dec. 28, 2020).

CBERA EXTENSION

Presidential Proclamation 10128 has directed changes to the HTSUS to give effect to the October 10, 2020 extension of the Caribbean Basin Economic Recovery Act (CBERA) preferential tariff treatment through September 30, 2030. 85 Fed. Reg. [85491](#) (Dec. 29, 2020).

BANNED INVESTMENTS

President Trump has issued an Executive Order prohibiting the ownership of any CCMC shares by exchange-traded funds (ETFs) and index funds, as well as any of their 50% or greater majority-owned subsidiaries that have been publicly listed by the Treasury or Defense Departments. This action is intended to limit U.S. investor contributions to the development and modernization of the People’s Republic of China’s military, intelligence, and security services. 85 Fed. Reg. [222](#) (Nov. 17, 2020).

FTZ STATS

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 01/15/2021

	Approved	Currently Authorized
Zones	294	276
Subzones	861	707
Pending		
Zones	3	
Subzones	14	
Misc.	27	