



IMPORT ENFORCEMENT

Clients are encouraged to increase import compliance efforts in 2021. U.S. Customs and Border Protection (CBP) has released updated trade enforcement [statistics](#) outlining increased audits, revenue collections from audits, penalties, seizures, Enforce and Protect Act (EAPA) investigations, and Withhold Release Orders (WRO) for Fiscal Year 2020.

FORCED LABOR

· CBP has [announced](#) the detention of ninety (90) shipments of goods on suspicion of the use of forced labor between October 1, 2020 and December 31, 2020.

· CBP Executive Assistant Commissioner Brenda Smith [announced](#) in a webinar that Withhold Release Orders (WRO) issued on products originating in the Xinjiang Province of China will be applied with a “scalpel” approach and targeting will focus on the highest risk shipments.

· On January 27, 2021, Senators Marco Rubio (R-FL) and Jeff Merkley (D-OR) introduced the [Uyghur Forced Labor Prevention Act](#). The bill would make it illegal to enter goods made with Uyghur forced labor in the Xinjiang Uyghur Autonomous Region.

· CBP has posted [responses](#) to frequently asked questions (FAQs) on the Xinjiang Uyghur WRO. The topics cover the scope of the WRO, proving the admissibility of detained shipments, best practices in preventing forced labor imports, and the use of bonded warehouses.

SECTION 232 LITIGATION

On February 4, 2021, a three (3) judge panel of the U.S. Court of International Trade (CIT) decided in favor of the U.S. government in an importer’s challenge to the validity of the Section 232 steel duties. The CIT found that the Commerce Department’s Section 232 steel report and President Trump’s determination that steel imports posed an impending threat were not reviewable, the undefined duration of the Section 232 steel duties did not violate Section 232, and President Trump’s modification of the Section 232 steel duties on EU, Canada, and Mexico steel products were permissible. *Universal Steel Products, Inc. v. U.S.*, CIT Slip Op. [21-12](#) (Feb. 4, 2021).

232 STEEL DERIVATIVES

On January 27, 2021, the CIT declined to dismiss a challenge alleging that

2021 TRAINING SEMINARS

We had a 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.

2020 IMPORT/EXPORT RECORDS

An efficient means to identify compliance concerns is to analyze 2020 import/export records. For over 20 years our firm has used specialized proprietary software to correlate records and identify potential compliance issues. Now is the time to authorize us to order your 2020 import and export data. Contact [Brenda Zeller](#) for assistance or with questions.

FTZ SAVINGS

Clients are reminded that calculating your FTZ savings in 2020 can be a very useful “what have I done for you lately” report for senior management. With such significant levels of Customs duties, just the FTZ “holding cost” duty elimination can be a very significant savings. Contact [Scott Taylor](#) for an explanatory memorandum and self-fillable Excel spreadsheet for calculating FTZ duty savings.

BURMA/MYANMAR SANCTIONS

In response to the military coup, President Biden issued an [Executive Order](#) on February 10. In addition, the Office of Foreign Assets Control (OFAC) has added several [individuals](#) to its Specially Designated Nationals (SDN) List. Under the terms of the EO, the assets of these individuals and their families are blocked. 86 Fed. Reg. [9429](#) (Feb. 12, 2021).

ALUMINUM EXTRUSIONS

On January 22, 2021, the Commerce Department announced the completion of its administrative review of the Countervailing Duty (CVD) Order on aluminum extrusions from China for 2018. Commerce determined that countervailable subsidies were being

SECTION 301 LITIGATION

· On February 5, 2021, U.S. Court of International Trade (CIT) Chief Judge Timothy Stanceu assigned the cases challenging the validity of China Section 301 List 3 and 4 duties to a three-judge panel.

· On February 10, 2021, the three-judge panel issued a Procedural Order setting up a “master case” and requiring the government to file an answer to these Section 301 challenges by March 12, 2021.

· Importers may arguably still file challenges to the China Section 301 List 3 and 4A duties at the CIT.

· Contact [Brian Murphy](#) or [Sean Murray](#) with questions.

BUY AMERICA POLICY

· On January 25, 2021, President Biden issued an Executive Order (EO) to increase and enhance government “Buy America” preference programs. The EO directs the federal government as general policy to maximize the use of U.S. goods, products, and services. More specifically, it creates a new “Made in America Office” to centralize federal government efforts, increases transparency and scrutiny of “Buy America” waivers, and directs the Federal Acquisition Regulatory Council to consider issuing a new rule within 180 days that would increase domestic content requirements, increase price preferences for domestic products, and replace the component test for identifying U.S. end products and construction materials. Contact [Sean Murray](#) with questions. 86 Fed. Reg. [7475](#) (Jan. 28, 2021).

· On January 14, 2021, President Trump issued an EO for the U.S. Postal Service to revise its Supplying Principles and Practices (SPP) to bring them in line with the Federal Acquisition Regulations (FAR) Buy American preferential price differentials and domestic content requirements. 86 Fed. Reg. [6547](#) (Jan. 21, 2021).

301 PRODUCT EXCLUSIONS

While the majority of China Section 301 product exclusions have expired, one hundred and sixteen (116) China Section 301 product exclusions still remain in effect and will expire on either March 31, 2021 or April 18, 2021. Contact [Ryan Thornton](#) for our comprehensive China Section 301 product exclusion spreadsheet.

CUSTOMS BOND SUFFICIENCY

Clients are reminded that with the end

President Trump lacked the ability to modify the existing Section 232 steel duties to later include Section 232 duties on steel derivative products. PrimeSource Building Products, Inc. v. U.S., CIT Slip Op. No. [21-8](#) (Jan. 27, 2021). Contact [Brian Murphy](#) with questions.

232 STEEL EXCLUSIONS LAWSUIT

NLMK Steel has filed suit in Pennsylvania state court alleging that U.S. Steel engaged in misrepresentation and deception when opposing NLMK's Section 232 Product Exclusion requests. The suit seeks more than \$100 million in damages.

FTZ ALUMINUM LICENSES

CBP announced that the requirement to provide aluminum import license numbers on e214s has been delayed until March 29, 2021. Contact [Linda King](#) with questions. CSMS #[45799085](#) (Jan. 22, 2021).

VIETNAM 301 DEFERRED

On January 22, 2021, the Office of the U.S. Trade Representative (USTR) issued a Notice that it had determined Vietnam's currency valuation practices are unreasonable and actionable under Section 301. The Biden Administration is not expected to take any immediate action. Contact [Brian Murphy](#) with questions. 86 Fed. Reg. [6732](#) (Jan. 22, 2021).

SECTION 321

Reports indicate that CBP plans to propose new Customs entry requirements for importing low-value shipments under Section 321. New data elements may include additional information on the buyer and seller, photos of the commodity, and other transactional details to align these imports with normal Customs entries in order to enforce counterfeit and PGA laws. It is also expected that Section 301 trade remedy duties will be required. Contact [Brian Murphy](#) with questions.

FTZ ACE ENTRY GUIDANCE

CBP has released a revised version of the [ACE Entry Summary Rules and Process](#) document. The revisions include specific requirements for Type 06 FTZ entries and provide that CBP Form 7501s will not be accepted if they contain HTS numbers, zone status, or country of origin combinations that were not present on the corresponding CBP Form 3461 Cargo Release. Clients should understand that ACE programming does not enforce the specific longstanding legal requirements. Contact [Linda King](#) with questions. CSMS #[45523296](#) (Jan. 13, 2021).

CTPAT/AEO RECOGNITION

The U.S. and United Kingdom have [agreed](#) to recognize each other's "Trusted Trader" Authorized Economic Operators (AEO) and Customs Trade Partnership Against Terrorism (CTPAT) programs. Contact [Sean Murray](#) with questions.

TRADE SECRETS

On February 1, 2021, the Department of Justice (DOJ) [announced](#) that Li Chen was sentenced to thirty (30) months in prison after his conviction for conspiring to steal medical trade secrets from a

of China Section 301 product exclusions. Customs duties will increase in 2021 and customs bonds may need to be increased. Bonding companies have increased their underwriting requirements. Some bonding companies are requiring letters of credit for the full bond amount from certain importers. Contact [Marshall Miller](#) with questions.

EU VACCINE EXPORT CONTROLS

On January 29, 2021, the European Union (EU) [announced](#) measures to monitor and potentially restrict exports of COVID-19 vaccines outside the EU.

FDA MEXICO HAND SANITIZER

On January 26, 2021, the Food and Drug Administration (FDA) issued [Import Alert 62-08](#) requiring the detention without physical examination of all alcohol-based hand sanitizers manufactured in Mexico due to concerns the products contain unacceptable levels of methanol or 1-propanol or insufficient amounts of ethyl or isopropyl alcohol.

EPA PESTICIDES & COVID-19

On January 28, 2021, the Environmental Protection Agency issued a compliance advisory stating that products being used to disinfect surfaces claiming to be effective against COVID-19 are subject to EPA testing and registration. CSMS #[45979837](#) (Jan. 28, 2021).

HTSUS 2022 CHANGES

While the 2022 Harmonized System changes will go into effect on January 1, 2022, the World Customs Organization (WCO) has already announced [amendments](#) that will enter into force on January 1, 2023. These amendments are throughout the HTS and include Chapters 21, 24, 26, 67, 84, 88, and 97. Clients are encouraged to review these amendments now. Contact [Brian Murphy](#) with questions.

HTSUS 9808.00.30

CBP has clarified guidance on military duty-free entries under HTSUS 9808.00.30, reminding importers that duties will be assessed if the DCMA duty-free certificate is not submitted to CBP within 6 months of entry. Contact [Sean Murray](#) with questions. CSMS #[46189077](#) (Feb. 11, 2021).

TRADEMARK RECORDATION

Clients are encouraged to record their trademarks with CBP to secure import seizures of violative product. CBP has the authority to detain, seize, forfeit, and/or destroy merchandise seeking entry into the U.S. if it bears an infringing trademark or copyright that has been registered with the U.S. Patent and Trademark Office (USPTO) or the U.S. Copyright Office and subsequently recorded with CBP. For more information on how to record with CBP and develop an efficient enforcement mechanism, contact [Ryan Thornton](#).

THIRD COUNTRY AD/CVD GLITCH

From October 5, 2019 to October 28, 2020, importers that were required to provide third-country AD/CVD case numbers were unable to do so. CBP has instructed importers to file Post

of China Section 301 product exclusions. Customs duties will increase in 2021 and customs bonds may need to be increased. Bonding companies have increased their underwriting requirements. Some bonding companies are requiring letters of credit for the full bond amount from certain importers. Contact [Marshall Miller](#) with questions.

CBP SCAMMERS

CBP has issued an [alert](#) to importers of a telephone scam involving unsolicited calls from individuals purporting to be U.S. Border Patrol Agents or CBP Officers seeking banking information. Recipients of these calls are encouraged to report them to CBP and the Federal Trade Commission (FTC).

WTO DIRECTOR GENERAL

The Biden Administration has moved to break the logjam over the World Trade Organization (WTO) Director General by endorsing the Nigerian Finance Minister Ngozi Okonjo-Iweala. South Korean Trade Minister Yoo Myung-hee subsequently dropped her candidacy.

CHINA POLICY REVIEW

On January 25, 2021, White House Press Secretary Jen Psaki [stated](#) that the China Section 301 tariffs, the Commerce Department's inclusion of Huawei on the Entity List, and Executive Orders restricting U.S. investment in companies associated with the Chinese military are under review by the Biden Administration.

FTZ PENALTY INCREASE

The Commerce Department has issued a Final Rule, effective January 15, with its annual inflation adjustments to civil penalties. FTZ penalties increased from \$2,976 to \$3,011 for violations of 19 U.S.C. § 81s. 86 Fed. Reg. [1764](#) (Jan. 11, 2021).

UAE SECTION 232 ALUMINUM

· On January 20, 2021, the United Arab Emirates (UAE) and the Trump Administration agreed to a quota on aluminum imports to replace the 10% Section 232 duty on aluminum imports. 86 Fed. Reg. [6825](#) (Jan. 25, 2021).

· On February 1, 2021, President Biden announced that the agreement between the Trump Administration and the UAE would not go into effect at this time. 86 Fed. Reg. [8263](#) (Feb. 4, 2021).

CUBA

· On January 22, 2021, the State Department designated Cuba as a state sponsor of terrorism. 86 Fed. Reg. [6731](#) (Jan. 22, 2021). Contact [Sean Murray](#) or [Chuck Ballard](#) with questions.

· On February 5, 2021, Senate Finance Committee Chair Ron Wyden (D-OR) introduced the [U.S.-Cuba Trade Act of 2021](#), which would repeal sanctions and establish normal trade relations with Cuba.

BIS EXPORT PENALTIES

· On January 27, 2021, the Bureau of Industry and Security (BIS) [announced](#) that a California business and its owner agreed to a fine of \$540,000 and two-year suspension of export privileges after allegedly

research hospital and transfer those secrets to the Chinese government.

XIAOMI LAWSUIT

Xiaomi, a Chinese consumer electronics company, has filed a lawsuit challenging the Treasury and Defense Department's designation of the company as a communist Chinese military company and the resulting blocking sanctions and investment ban. [Xiaomi Corp. et. al. v. U.S.](#) Case No. 21-cv-00280-RC (D.D.C. Feb. 5, 2021).

PERSONAL DRUG IMPORTS

On January 21, 2021, the FDA issued a revised Request for Proposals for the reimportation of insulin products and importation of personal drugs. 86 Fed. Reg. [6343](#) (Jan. 21, 2021).

ANTIBOYCOTT SETTLEMENT

On January 13, 2021, Mediterranean Shipping Company [agreed](#) to pay \$81,000 and conduct an internal audit of its past anti-boycott compliance program to settle allegations that it violated the anti-boycott provisions of the Export Administration Regulations. The company allegedly agreed to requests to add Israel boycott clauses to shipping documentation.

WASHING MACHINE SAFEGUARDS

On January 14, 2021, President Trump extended the Section 201 safeguard action on large residential washers for two years. 86 Fed. Reg. [6541](#) (Jan. 21, 2021).

OFAC WARNING LETTER

On January 26, 2021, H.B. Fuller [indicated](#) in an Securities and Exchange Commission (SEC) filing that it had received a warning letter from OFAC in response to its disclosure that it may have sold hygiene products into Iran in violation of U.S. sanctions.

STEEL MELT AND POUR

Steel import licenses now require importers to specify the country where steel is melted and poured. The U.S. Commerce Department International Trade Administration created a new dashboard with [data](#) on countries where raw steel is first produced from a liquid state and then poured into its first solid state. Contact [Brian Murphy](#) with questions.

Summary Corrections (PSCs) within the next sixty (60) days to add third-country AD/CVD numbers. CSMS [#46031819](#) (Feb. 3, 2021).

CHINESE GENERAL LICENSES

On January 27, the Office of Foreign Assets Control (OFAC) issued [General License \(GL\) 1A](#) which extended authorization of certain transactions in securities of companies that "closely match" those entities named as supporters of the Chinese military through May 27. OFAC has also updated frequently asked questions (FAQs) [878](#) and [879](#).

HONG KONG SDN LIST

On January 22, 2021, the State Department added nineteen individuals to the Specially Designated Nationals (SDN) List for developing, adopting, or implementing China's National Security Law for Hong Kong. All property and interests of these individuals subject to U.S. jurisdiction are blocked and U.S. persons are generally prohibited from engaging in transactions with them. 86 Fed. Reg. [6730](#) (Jan. 22, 2021); 86 Fed. Reg. [6729](#) (Jan. 22, 2021).

2020 BIS ANNUAL REPORT

The Bureau of Industry and Security (BIS) has issued its Annual Report to Congress. The report summarizes BIS activities over the past year, including its efforts to combat China's Military-Civilian Fusion (MCF) Strategy, act against Huawei, fight human rights abuses in China, respond to Chinese actions in Hong Kong, and control emerging and foundational technologies.

FWS MESSAGE SET DELAYED

U.S. Fish and Wildlife Service (FWS) has delayed implementation of the FWS Message set in ACE. FWS expects the mandatory submission of import data for FWS regulated products to take effect in June 2021. Contact [Linda King](#) with questions. CSMS [#46044069](#) (Feb. 3, 2021).

U.S. CHINA TRADE DEAL

According to [data](#) from China's customs agency, China has only purchased 58.1% of the agreed \$172 billion in goods from the United States as outlined in the Phase One Trade Deal.

submitting false information in the Automated Export System (AES) on controlled exports telecommunications networking equipment to Russia.

· On January 29, 2021, BIS [fined](#) a Singapore-based electronics and software distributor approximately \$3.2 million and suspended its export privileges for illegally exporting controlled items to China and Iran. The Department of Justice (DOJ) also [charged](#) a company employee with participating in a conspiracy to violate U.S. export laws.

· On February 1, 2021, BIS [fined](#) Princeton University \$54,000 and ordered an audit into Princeton's export control compliance program. BIS found that Princeton had illegally exported various strains and recombinants of animal pathogens to overseas research universities without BIS licenses.

SOURCING CHARGES

CBP has ruled that fees paid by BMW North America to its German parent company under a sourcing assistance agreement were not dutiable additions to the price actually paid or payable under the transaction value methodology. Contact [Tom Lobred](#) or [Sean Murray](#) with questions. HQ [H311666](#) (Dec. 15, 2020).

FDA SEAFOOD

On February 8, 2021, the FDA announced the launch of the second phase of its Artificial Intelligence (AI) Import Seafood Pilot program. The program is intended to utilize machine learning to target violative seafood shipments. CSMS [#46144525](#) (Feb. 8, 2021).

APHIS LACEY IMPLEMENTATION

CBP has announced updates to the APHIS Lacey Implementation Guide to incorporate a Lacey de minimis disclaimer code. CSMS [#46108805](#) (Feb. 5, 2021).

FTZ STATS

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 02/15/2021

	Approved	Currently Authorized
Zones	294	276
Subzones	863	709
Pending		
Zones	3	
Subzones	12	
Misc.	30	