



## DST SECTION 301 DUTIES

On March 31, the Office of the U.S. Trade Representative (USTR) [announced](#) that it will proceed with Section 301 investigations into the Digital Services Taxes (DST) adopted by [Austria](#), [India](#), [Italy](#), [Spain](#), [Turkey](#), and the [UK](#). The USTR has proposed 25% duties on certain products of these 6 countries. The USTR is requesting written comments on the proposed duties by April 30, 2021. The USTR also announced that it was [terminating](#) investigations into the DST practices of Brazil, the Czech Republics, the EU, and Indonesia. Contact [Brian Murphy](#) or [Sean Murray](#) with questions.

## 232 DERIVATIVES LITIGATION

On April 5, the U.S. Court of International Trade (CIT) ruled that the Section 232 duties on steel and aluminum derivative products were invalid and contrary to law. Contact [Brian Murphy](#) or [Sean Murray](#) with questions about preserving potential refunds. [PrimeSource Building Products, Inc. v. U.S.](#), CIT Slip Op. No. [21-36](#) (April 5, 2021).

## MORE RUSSIAN SANCTIONS

On April 15, President Biden issued a new [Executive Order](#) (EO) to authorize sanctions against Russia for its undermining democratic institutions, malicious cyber activities, and lack of respect for territorial integrity. Pursuant to the EO, the Office of Foreign Assets Control (OFAC) is adding 38 entities and individuals to the Specially Designated Nationals (SDN) List. OFAC has published six new frequently asked questions (FAQs) - [886](#), [887](#), [888](#), [889](#), [890](#), and [891](#) - and updated FAQs [673](#), [674](#), [675](#), and [676](#). Restrictions are also being imposed on financial transactions with three Russian government financial institutions.

## RUSSIAN EXPORT CONTROLS

The Bureau of Industry and Security (BIS) has announced additional restrictions on exports to Russia. Among them are the elimination of license exceptions RPL (returns or replacements), TSU (Technology and Software Unrestricted), and APR (Additional Permissive Reexports). License applications for commodities with Export Control Classification Numbers (ECCNs) controlled for NS reasons will carry a "presumption of denial." [86 Fed. Reg. 14689](#) (Mar. 18, 2021).

## FORCED LABOR

· On March 29, CBP published a Notice

## 2021 TRAINING SEMINARS

Due to COVID-19, our Spring and Fall training seminars will again be by webinar only.

### Spring

· 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](#) to register or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

## SECTION 301 LITIGATION

On March 31, 2021, the U.S. Court of International Trade (CIT) issued a procedural order designating HMTX Industries as the sample case and appointing a fifteen person Plaintiffs Steering Committee in the China Section 301 litigation. Pursuant to the order, the Steering Committee and Department of Justice (DOJ) filed a joint status report and the CIT issued a scheduling order. The DOJ has not stipulated as to the availability of refunds for liquidated entries. The CIT set a status conference for April 26. Contact [Brian Murphy](#) or [Sean Murray](#) with questions.

## INFRASTRUCTURE BILL

Something to watch in President Biden's proposed infrastructure bill is how "Buy American" provisions will treat existing U.S. obligations under the WTO Government Procurement Agreement. A group of Democratic Senators has demanded that waivers of "Buy American" requirements be suspended for COVID-19 relief, recovery, and infrastructure spending.

## MYANMAR TRADE

On March 29, 2021, the U.S. Trade Representative (USTR) [announced](#) the suspension of U.S. government engagement with Myanmar under the 2013 Trade and Investment Framework Agreement (TIFA) due to the military coup and related violence. The TIFA is a platform for government cooperation on trade and investment issues.

## CCL AND ENCRYPTION UPDATES

On March 29, the Bureau of Industry and Security (BIS) published a Final Rule updating the Commerce Control List (CCL) to reflect revisions agreed to under the Wassenaar Arrangement. The changes impact 22

## CBP COMMISSIONER NOMINEE

President Biden has nominated Chris Magnus, the Tucson, Arizona police chief, to be the next Commissioner of U.S. Customs and Border Protection (CBP). Mr. Magnus previously served as police chief of Fargo, North Dakota and Richmond, California.

## EXPANDED ZONE ID

The Draft ACE Cargo Release Implementation Guide and Draft FTZ Chapter have been updated to expand the Zone ID from seven to nine digits to accommodate additional Subzone sites and sets of General Purpose (GP) Zone acreage. Deployment to Production is scheduled for April 24, 2021. The existing 5- and 7-character length formats are still supported until further notice. CSMS [#46952063](#) (April 12, 2021)

## CBP TRADE REPORT/STATISTICS

CBP has issued its [Trade and Travel Report](#) for Fiscal Year 2020 covering all aspects of CBP trade facilitation and enforcement. CBP has also posted FY 2020 [trade statistics](#), including:

- Total Import Value - \$2.42 trillion
- Total Duty Collected - \$74.4 billion
- Total Trade Remedy Duties Assessed from Inception - \$98.4 billion
- Completed Audits - 466
- Collections from Audits - \$44.6 million
- Total Penalties Issued - 2,309
- Total Trade Seizures - 73,708

Clients are encouraged to review the report and statistics for useful information for management reports.

## BIS HUMAN RIGHTS

The Bureau of Industry and Security (BIS) has added a [new section](#) to its website providing guidance related to human rights. The section contains links to recent Entity List additions related to human rights violations and advisories for companies operating in China's Xinjiang region.

## HUAWEI TO REMAIN SANCTIONED

Commerce Secretary Gina Raimondo indicated in an April 7 [press conference](#) that she has no intention of removing Huawei from the BIS Entity List any time soon.

## XIAOMI DESIGNATION

On March 12, 2021, a federal judge temporarily blocked Xiaomi's designation as a Chinese military company and the resulting prohibition on U.S. citizen ownership of Xiaomi securities because the Department of Defense (DOD) provided an inadequate

of Findings concerning certain disposable gloves manufactured in Malaysia by Top Glove Corporation. 86 Fed. Reg. [16380](#) (Mar. 29, 2021).

· The U.S. Court of International Trade (CIT) has remanded to the Commerce Department an antidumping duty (ADD) investigation into steel kegs from China. Commerce has been directed to reconsider the impact of forced labor practices on labor surrogate values used to calculate the ADD rate. [New American Keg v. U.S.](#), CIT Slip Op. No. [21-30](#) (Mar. 23, 2021).

· CBP has issued a ruling on the detention by Newark CBP of garments on suspicion of forced labor production by North Korea nationals. CBP determined that documentation, photographs, and third-party audit reports did not prove by clear and convincing evidence that the garments had not been made with North Korean labor. HQ [H317249](#) (Mar. 5, 2021).

· On March 30, 2021, Federal Communications Commission (FCC) Chairman Brendan Carr [called](#) on Congress to adopt legislation requiring U.S. telecom carriers to remove and replace equipment produced by Huawei, ZTE, and other Chinese entities and to ensure that devices made with forced labor do not enter the U.S. market.

#### USTR TALKS

New U.S. Trade Representative Katherine Tai has held talks with trade representatives from Canada, the United Kingdom, European Union, World Trade Organization, Japan, South Korea, Mexico, France, Germany, Indonesia, India, Australia, Singapore, Spain, South Africa, New Zealand, Turkey, Kenya, Vietnam, and Belgium. Readouts can be reviewed on the [USTR website](#). These talks centered on cooperating on climate change, China's unfair trade practices, WTO reform, resolution of the large civil aircraft subsidies dispute, and the proposed U.S.-U.K. free trade agreement.

#### DON'T LET THIS HAPPEN TO YOU

The Bureau of Industry and Security (BIS) has issued an updated version of its ["Don't Let This Happen to You"](#) publication. It provides examples of companies and individuals who have been penalized for intentional and inadvertent violations of the Export Administration Regulations (EAR).

#### PROCESS CONTROL PENALTY

On March 15, the Office of Foreign Assets Control (OFAC) announced a [settlement agreement](#) with UniControl of Cleveland, Ohio. UniControl agreed to remit \$216,464 for selling process control equipment, airflow pressure switches, and related instrumentation to European companies with reason to know they would be shipped to Iran.

#### OFAC INCREASES PENALTIES

OFAC is increasing its base penalty amount to \$311,562 pursuant to the Federal Civil Penalties Inflation Adjustment Act. 86 Fed. Reg. [14534](#) (Mar. 17, 2021).

#### USPPI REPORTING IN AES

In a blog post [published](#) March 16, the Census Bureau issued guidance on correctly reporting the address of the U.S. Principal Party in Interest (USPPI) in

Export Control Classification Numbers (ECCNs) in Categories 0, 1, 2, 3, 5, 6, and 9. Changes have also been made to eliminate some reporting and classification requirements for encryption products. 86 Fed. Reg. [16482](#) (Mar. 29, 2020).

#### USMCA DRAWBACK

On March 17, 2021, CBP announced that the trade may begin filing USMCA drawback claims in ACE. Drawback filers with Accelerated Payment (AP) privileges will not be eligible for AP until the applicable regulations have been implemented. CSMS [#46642358](#) (Mar. 17, 2021).

#### ICC SANCTIONS REMOVED

The State Department is removing visa restrictions on three members of the International Criminal Court (ICC). The OFAC has removed these three ICC members from the Specially Designated Nationals (SDN) List. The ICC members were added to the SDN List during the Trump Administration but were removed following President Biden's Executive Order 14022 issued on April 1. 86 Fed. Reg. [17895](#) (April 1, 2021).

#### SECTION 232 REFORM

On March 15, 2021, a bipartisan group of Senators introduced the Trade Security Act of 2021 ([S.B. 746](#)) to reform Section 232. The reforms would require the Department of Defense (DOD) to justify the national security basis for Section 232 duties and increase Congressional oversight of the process.

#### CHINESE COMPUTER SANCTIONS

The BIS has added 7 Chinese supercomputer entities to its Entity List. U.S. intelligence believes these entities are being utilized by the Chinese military to develop new and more modern lethal weapons. Licenses submitted for any of these entities will carry a "presumption of denial." 86 Fed. Reg. [18437](#) (April 9, 2021).

#### HUMAN TISSUE SAMPLES

CBP has issued a ruling that classified certain human tissue samples imported for diagnostic analysis as animal products not elsewhere specified or included in Heading 0511 instead of in Heading 3001 as human substances prepared for therapeutic or prophylactic use. CBP indicated that it will propose to revoke several rulings inconsistent with this determination. Contact [Sean Murray](#) with questions. HQ [H304055](#) (Mar. 31, 2021).

#### ACE EXTENSION REPORTS

CBP has reminded importers that they have access in ACE to review liquidation extensions and suspensions. Clients are encouraged to confirm liquidations. Expedited and suspended liquidations typically indicate an issue. CSMS [#46610887](#) (Mar. 15, 2021).

#### AEROSPACE EXPORTS

On March 18, BIS [fined](#) a California-based satellite company \$122,000 for illegally exporting controlled goods to Russia, the United Arab Emirates, and Brazil. The company incorrectly determined that the merchandise did

explanation for the designation. Contact [Sean Murray](#) with questions. [Xiaomi Corp. v. Dep't of Defense](#), [CV-21-280](#) (D.D.C)

#### ALUMINUM LICENSES DELAY

Customs has delayed the aluminum import license requirement in ACE until June 28, 2021. CSMS [#46800973](#) (Mar. 29, 2021); CSMS [#4680916](#) (Mar. 30, 2021).

#### BIS FOREIGN INTEL RULE

· The new BIS rule on foreign military intelligence agencies went into effect on March 16, 2021. The rule imposes new controls on technologies and activities that support foreign military-intelligence end uses and new restrictions to prevent U.S. parties from supporting certain weapons programs.

· The BIS has issued a technical correction to the rule to prevent the inadvertent deletion of two subparagraphs of the Export Administration Regulations. 86 Fed. Reg. [14534](#) (Mar. 17, 2021).

· The BIS has added Burma (a.k.a. Myanmar) to the list of countries subject to military-intelligence end-use and user controls. 86 Fed. Reg. [18433](#) (April 9, 2021).

#### MEXICAN MESH

On April 12, 2021, the Commerce Department imposed countervailing duties (CVD) on imports of certain Mexican standard steel welded wire mesh subsidized by the Mexican government. These CVD range from 1.03% to 102.1%. 86 Fed. Reg. [18940](#) (April 12, 2021).

#### PGA MESSAGE SET

The final versions of the PGA message set and PGA Appendix have been posted to the CBP website and were deployed on March 21, 2021. CSMS [#46857101](#) (April 2, 2021).

#### HONG KONG

On March 31, 2021, the State Department submitted its [2021 Hong Kong Policy Act Report](#) to Congress on conditions in Hong Kong. The Secretary of State certified that Hong Kong no longer warrants differential treatment under U.S. law.

#### FLOWER MARKING

Customs has issued a new [fact sheet](#) on the marking of consumer-ready fresh cut flowers. Fresh cut flower containers reaching the ultimate purchaser must be marked to indicate the origin of the flowers. CSMS [#46760568](#) (Mar. 25, 2021).

#### COMPANY PRESIDENT ARRESTED

The Justice Department [announced](#) on April 6 that it had arrested Mr. Michael Rose, the president of Long Island-based Forsythe Cosmetics Group LLC, for allegedly conspiring to sell cosmetics to Iran. Mr. Rose is accused of using United Arab Emirates middlemen to resell cosmetics in Iran. If convicted, Mr. Rose faces up to 30 years in prison and millions of dollars in fines.

#### SOLAR PANEL DUTIES

The Commerce Department has amended the antidumping (AD) and countervailing duty (CVD) orders on crystalline silicon photovoltaic (CSPV)

the Automated Export System (AES).

not require an export license.

products from China to exclude certain off-grid CSPV panels without a glass cover. 86 Fed. Reg. [15914](#) (Mar. 25, 2021).

**OFAC CHINA**

On March 23, OFAC placed 25 Chinese nationals on the Specially Designated Nationals (SDN) List for actions related to Hong Kong autonomy. 86 Fed. Reg. [15552](#) (Mar. 23, 2021).

**IRAN RE-EXPORTS**

On March 26, OFAC [announced](#) a settlement and \$950,000 fine of an Italian gas equipment manufacturer for violating U.S. sanctions against Iran by knowingly reexporting U.S.-origin air pressure switches to Iran.

**SANCTIONS CLARIFICATION**

The OFAC has published [new guidance](#) on exports pursuant to the Trade Sanctions Reform Act (TRSA), which permits some exports of humanitarian and agricultural products to embargoed countries. OFAC added frequently asked questions (FAQs) [97](#) and [98](#) relating to TSRA license applications and FAQs [500](#) and [836](#) relating to the Sudanese regulations. With many sanctions on Sudan lifted, most exports of agricultural products no longer require a license.

**EAPA PORTAL**

On April 1, Customs [deployed](#) the new Enforce and Protect Act (EAPA) portal. The portal allows users to submit and view allegations involving evasion of antidumping and countervailing duties (AD/CVD). 131 investigations have been launched under EAPA and over \$600 million in AD/CVD owed have been identified.

**BOYCOTTING COUNTRIES**

On April 8, the Treasury Department issued its latest list of countries that are actively participating in a boycott of Israel. The list includes Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, and Yemen. The United Arab Emirates (UAE) has been removed from the list. The boycott regulations (15 C.F.R. Part 760) have not changed and it should be noted boycott requests could appear from any country. 86 Fed. Reg. [18374](#) (April 8, 2021).

**BATTERY PACKS**

CBP has issued a ruling that the assembly of lithium-ion battery packs in China did not result in a substantial transformation. The origin of battery packs is generally based on the origin of the battery cells. HQ [H316389](#) (April 1, 2021).

**CBP TRADE SYMPOSIUM**

CBP has announced that the 2021 Trade Symposium will be a virtual event on July 20-21, 2021.

<b>FTZ STATS</b>		
<b>FOREIGN-TRADE ZONES BOARD</b>		
<b>ACTIVITY AS OF 04/15/2021</b>		
	<u>Approved</u>	<u>Currently Authorized</u>
Zones	294	276
Subzones	867	713
<u>Pending</u>		
Zones	3	
Subzones	13	
Misc.	43	