



SECTION 301 LITIGATION

On July 6, the U.S. Court of International Trade (CIT) issued a preliminary injunction enjoining U.S. Customs & Border Protection (CBP) from liquidating certain unliquidated entries subject to the China Section 301 List 3/4A litigation. CBP is prohibited from liquidating these entries until August 3, 2021. Counsel and the CIT judges held a status conference on July 15 on the process for plaintiffs to protect unliquidated Customs entries for later disposition in accord with the decision. Contact [Brian Murphy](#) or [Sean Murray](#) with questions. In re Section 301 Cases, Slip Op. [21-81](#) (July 6, 2021).

SECTION 232 LITIGATION

The U.S. Court of Appeals for the Federal Circuit (CAFC) has reversed the CIT's decision to invalidate the Section 232 tariff increase on Turkish steel products. The CAFC determined that the President retained authority to adjust Section 232 actions outside the statutory timelines, so the later tariff increases made by President Trump were valid. Transpacific Steel LLC, et. al. v. U.S., et. al., CAFC Slip Op. [20-2157](#) (July 13, 2021).

CHINESE ENTITY UPDATES

- On June 22, the Office of Foreign Assets Control (OFAC) added two companies to the non-Specially Designated Nationals (non-SDN) List of Chinese Military Industrial Complex Companies List. U.S. persons are prohibited from buying or exchanging securities with entities on this list. 86 Fed. Reg. [32714](#) (June 22, 2021).
- On June 24, the Bureau of Industry and Security (BIS) added five Chinese entities to the BIS Entity List. The five entities are believed to be involved in the use of forced labor against Uyghurs, Kazakhs, and other Muslim minority groups in the Xinjiang Uyghur Autonomous Region. 86 Fed. Reg. [33119](#) (June 24, 2021).
- On June 28, the Department of Defense (DOD) removed the "Communist Chinese Military Companies" designation from all entities previously designated, and indicated that no companies are currently designated as such. At the same time it designated 47 telecommunication, aviation, machinery, semiconductor, and electronics companies as "Chinese Military Companies" under different legal authority. 86 Fed. Reg. [33994](#) (June 28, 2021)
- On July 12, BIS added 34 entities to the Entity List and one entity to the Military End User (MEU) List. Most of the new entities are in China, but there are also

2021 FALL SEMINARS

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

- 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.

BIDEN TRADE POWERS LAPSE

On July 1, Trade Promotion Authority, President Biden's authority to fast-track trade deals, lapsed without the Biden Administration requesting new authority. The TPA lapse will complicate potential free trade agreements under negotiation with Kenya and the United Kingdom.

XINJIANG FORCED LABOR

- On June 24, CBP [issued](#) a Withhold Release Order (WRO) against Hoshine Silicon Industry, Co. Ltd. and its subsidiaries in the Xinjiang region of China. As a result, CBP is now detaining shipments of silica-based products to verify their content. Contact [Sean Murray](#) or [Linda King](#) with questions.
- On July 13, a combination of U.S. government agencies issued an updated Xinjiang supply chain business [advisory](#) warning of risks in imports and exports involving the region.

FEMA PPE RULE EXPIRES

On July 1, the Federal Emergency Management Agency (FEMA) [confirmed](#) that its export restrictions on certain Personal Protective Equipment (PPE), including masks and gowns, have expired. PPE can now be exported without FEMA authorization.

BOEING/AIRBUS

The U.S. Trade Representative (USTR) has suspended for five years the additional Section 301 duties on EU and UK goods resulting from the Boeing/Airbus dispute. The duties were removed from UK goods on July 4 and EU goods on July 11. This comes after the U.S., EU, and UK reached initial agreements on the subsidization of large-civil aircraft production. Contact [Marshall Miller](#) with questions. 86 Fed. Reg. [36313](#) (July 9, 2021).

UK/EU TARIFF RATE QUOTAS

Due to Brexit, the USTR has published a Notice dividing tariff-rate quotas previously applicable to all EU goods

COUNTRY OF ORIGIN CHANGES

CBP has issued a Proposed Rule to amend the Customs Regulations to apply the tariff-based rules of origin in Part 102 to all products imported from Canada or Mexico, whether or not involving a U.S. – Mexico – Canada Agreement (USMCA) preference claim, and including origin determinations for government procurement under 19 C.F.R. Part 177. The Proposed Rule fails to update the tariff-shift rules to the current HTSUS. This is a very controversial subject. Client comments are encouraged. Comments are due by August 5. Contact [Sean Murray](#) with questions or for assistance with comments. 86 Fed. Reg. [35422](#) (July 6, 2021).

USMCA REGULATIONS

Effective July 1, CBP has adopted an Interim Final Rule that implements the USMCA provisions on import requirements, export requirements, drawback and duty-deferral programs, origin verifications, goods re-entered after repair in Canada or Mexico, and penalties throughout the Customs Regulations. Clients are urged to review these detailed regulations. As it is an Interim Rule, clients should submit detailed comments where there are issues or concerns. Comments are due September 7. Contact [Brian Murphy](#) with questions. 86 Fed. Reg. [35566](#) (July 6, 2021).

MADE IN USA PENALTIES

The Federal Trade Commission (FTC) has [published](#) a Final Rule on unqualified "Made in USA" claims on product labels and in promotional materials. The new FTC regulations increase the potential civil penalties for improper "Made in the USA" claims to up to \$43,280 per violation. Contact [Sean Murray](#) with questions. 86 Fed. Reg. [37022](#) (July 14, 2021).

FTZ ESTIMATED WEEKLY 3461

Some customs brokers are advising FTZ clients that the estimated weekly quantity is being transmitted electronically without the quantity being listed on the CBPF 3461. Make sure to advise your broker that the estimated weekly quantity needs to appear (be visible—not just electronic) on the 3461. A supplemental estimated weekly 3461 needs to be submitted and approved in advance of product leaving the FTZ if the initial estimated weekly quantity will be exceeded. Please contact [Linda King](#) with any questions.

entities in Canada, Pakistan, Iran, Lebanon, the Netherlands, the United Arab Emirates, Taiwan, Russia, South Korea, Turkey, Singapore, and the United Kingdom. BIS also modified a listing and removed some entities. 86 Fed. Reg. [36496](#) (July 12, 2021).

SECTION 232 AUTO REPORT

The Commerce Department has finally [released](#) a redacted version of its Section 232 report on autos and auto parts. Section 232 duties were not imposed on autos or auto parts, but disclosure of the Section 232 report was sought by Congress and the auto industry. The report recommended to President Trump 25% additional duties on passenger cars and 35% on SUVs. Clients are encouraged to read it to understand the application of Section 232 "national security" standards. Contact [Marshall Miller](#) with questions.

FDA EUAS

On July 1, the Food and Drug Administration (FDA) announced that it was revoking the Emergency Use Authorizations (EUAs) for non-NIOSH approved disposable respirators and for decontamination and bioburden reduction systems. CSMS [#48653470](#) (July 1, 2021).

OFAC HUMANITARIAN GUIDANCE

The Office of Foreign Assets Control (OFAC) has issued General Licenses and [guidance](#) on the export of humanitarian items for COVID-19 treatment to [Syria](#), [Venezuela](#), and [Iran](#). OFAC has also issued new frequently asked questions (FAQs) [906](#), [907](#), [908](#), [909](#), [910](#), and [911](#) related to COVID-19 and the general licenses.

OFAC RUSSIA

OFAC has published a directive blocking activities with political subdivisions, agencies, and instrumentalities of the Russian government. 86 Fed. Reg. [35868](#) (July 7, 2021).

OFAC ICC SANCTIONS

OFAC has removed the International Criminal Court-related Sanctions Regulations previously imposed by the Trump Administration. 86 Fed. Reg. [35399](#) (July 6, 2021).

NO PROCEDURES OR RECORDS

In a June 23 [order](#), Skyline USA (Skyline) was penalized \$140,000 for exporting various implements of torture, such as police batons, pepper spray, handcuffs, and stun guns, to Latin America and Africa. Skyline representatives were allegedly unaware such products required an export license to ship outside the U.S. and had no export compliance process despite years of exporting experience. Skyline also failed to maintain required export records.

SECTION 321 FILINGS

CBP officials indicated at the Commercial Customs Operations Advisory Committee (COAC) meeting on June 23 that CBP will exempt some filers from the requirement to provide a 10-digit HTSUS classification while more data elements will be required on low value Section 321 shipments that do not have PGA requirements. CBP anticipates more than 1 billion 321 Type 86 entries in the coming year - an impossible challenge for

the U.S. and UK. 86 Fed. Reg. [35560](#) (July 6, 2021).

ACE ERROR CODES

- CBP has updated the PGA Error Code Dictionary in ACE. CSMS [#48553831](#) (June 23, 2021).
- CBP has updated FTZ error codes in ACE. CSMS [#48621012](#) (June 28, 2021).

CBI PROGRAM

The USTR has invited comments on the operation of the Caribbean Basin Initiative (CBI) for a Congressional report it is submitting by December 31, 2021. Comments are due by August 31. 86 Fed. Reg. [36176](#) (July 8, 2021).

MACHINERY HTS

Clients are reminded that great care should be exercised when importing production machinery. From our experience, foreign shippers often include incorrect HTS classifications on invoices and invoice values may be incorrect or include non-dutiable post-importation charges. Clients are encouraged to validate classifications and values. The condition in which machinery is shipped may impact its classification. See [HQ H310170](#) (June 25, 2021). Contact [Brian Murphy](#) for assistance.

BEVERAGE CONTAINERS

CBP has revoked four rulings on the classification of insulated stainless steel beverage containers. CBP previously classified double-walled stainless steel beverage containers as table, kitchen, or other household articles of Heading 7323, but now indicates that they are classified as vacuum flasks and other vacuum vessels of Heading 9617. 55 [Cust. B.](#) & [Dec. 9](#) (July 7, 2021).

APHIS CERTIFICATES

The Animal and Plant Health Inspection Service (APHIS) has updated guidance on the electronic submission of phytosanitary and veterinary certificates for shipment clearance. CSMS [#48666151](#) (July 2, 2021).

ACE APHIS CORE

CBP has announced updates to the ACE PGA Appendix related to units of measure for APHIS Core. CSMS [#48578170](#) (June 23, 2021).

USMCA ACCUMULATION

CBP has ruled that the accumulation of production costs from non-originating intermediate goods is allowed for USMCA regional value content calculations, just as under NAFTA. HQ [H316279](#) (June 24, 2021).

VENEZUELA GENERAL LICENSE

On July 12, OFAC issued [General License \(GL\) 40](#), which allows the export and reexport of liquefied natural gas to the Venezuelan government and PDVSA or any of its subsidiaries. The GL is valid until July 8, 2022. OFAC also added frequently asked questions [FAQ 914](#) and [FAQ 915](#).

NIGHT VISION GOGGLES

On June 21, a grand jury in Los Angeles indicted 5 individuals for [conspiring](#) to send thermal night vision goggles and rifle scopes to Russia in violation of the Arms Export Control

FTZ STUDY BILL

On June 24, Senator John Cornyn (R-TX) introduced legislation ([S. 2208](#)) that would require a study by the International Trade Commission (ITC) on whether companies that manufacture goods in a U.S. FTZ are harmed because they do not qualify for the same tariff concessions provided to products manufactured in equivalent zones in Mexico and Canada.

FTZ BOARD OFIS UPDATE

The Foreign Trade Zones (FTZ) Board has announced that its Online FTZ Information System (OFIS) is being modernized and replaced on July 20. The enhancements will allow Grantees to update the status of sites and subzones, edit Operator information, view Operator information by site/subzone, and more easily create annual reports.

FTZ REMOTE/VIRTUAL REVIEWS

CBP continues to schedule remote FTZ inspections, security, and annual reviews using online meeting platforms. Clients are leveraging technology to bridge the physical meeting gaps. Contact [Elena Asher](#) for assistance in making your CBP FTZ virtual meetings a success.

HTSUS REVISION 5

The International Trade Commission (ITC) has [posted](#) the fifth revision to the 2021 Harmonized Tariff Schedule of the United States. The revisions remove General Note 12 for NAFTA and add new 10-digit statistical suffixes for frozen warmwater shrimp, tomatoes, organic berries, high-strength steel, and hand sanitizers.

ALUMINUM IMPORT MONITORING

- On June 28, CBP announced the deployment of enhancements to the Aluminum Import Monitoring and Analysis System (AIM). CSMS [#48619526](#) (June 28, 2021).
- FTZ clients are reminded that FTZs are required to report aluminum licenses on e-214 FTZ admissions only, not entry. This is contrary to some FTZ software firm and broker advice. 86 Fed. Reg. [28166](#) (Dec. 23, 2020).

USMCA THREAD REQUIREMENTS

CBP has implemented the USMCA sewing thread requirements, under which sewing threads of Headings 5204, 5401, 5508, and yarn of Heading 5402 used in apparel products of Chapters 61 or 62 are only considered originating if the thread is both formed and finished in the territory of one or more USMCA countries. CSMS [#48659796](#) (July 1, 2021).

USMCA LABOR

On July 8, the U.S. and Mexico [announced](#) a plan to address labor issues at the General Motors facility in Silao, Mexico. The agreement seeks to enforce international labor standards by providing the workers with collective bargaining rights. The agreement is the first use of remediation under the USMCA Rapid Response Labor Mechanism.

CBP. Expect potential statutory or regulatory action.

Act. The defendants are also charged with violating the Foreign Trade Regulations (FTR) by falsifying values to avoid having to file in the Automated Export System (AES).

FTZ STATS

FOREIGN-TRADE ZONES BOARD
ACTIVITY AS OF 07/15/2021

	Approved	Currently Authorized
Zones	294	276
Subzones	871	717
Pending		
Zones	3	
Subzones	10	
Misc.	49	