



## NEW CHINA 301 EXCLUSIONS

The U.S. Trade Representative (USTR) is inviting public comments on whether to reinstate 549 China Section 301 product exclusions that are now expired. The 549 product exclusions are from Lists 1, 2, 3 and 4A, but are only a portion of the more than 2,200 previously approved product exclusions. USTR has [posted](#) a list of the 549 product exclusions and a comment form. The deadline to submit comments through the USTR portal is December 1. Reinstated product exclusions would be retroactive to entry or withdrawal from warehouse for consumption on or after October 12, 2021. [86 Fed. Reg. 56345](#) (Oct. 8, 2021).

USTR has [said](#) it “will keep open the potential” for additional product exclusions.

Please contact [Brian Murphy](#) or [Sean Murray](#) with questions or for assistance in preparing China Section 301 product exclusion reinstatement requests.

## USTR CHINA TALKS

On October 8, U.S. Trade Representative Katherine Tai met virtually with Chinese Vice Premier Liu He. USTR Tai raised China’s [commitments](#) under the “Phase One” agreement negotiated during the Trump Administration and U.S. concerns related to Chinese non-market practices. Both participants noted the importance of the bilateral trade relationship.

## G20 TRADE MEETING

At their meeting in Sorrento, Italy on October 12, the G20 Trade and Investment Ministers [reiterated](#) their commitment to the World Trade Organization (WTO) while calling for reforms to the WTO dispute settlement system and trade negotiation processes.

## 232 STEEL TARIFFS

USTR Tai [met](#) with European Commission Executive Vice President Valdis Dombrovskis on October 12 at the G20 Trade and Investment Ministerial Meeting and discussed global overcapacity and the Section 232 duties on EU steel and aluminum. In a [tweet](#), Vice President Dombrovskis indicated that the U.S. and EU are working towards a settlement on the Section 232 steel and aluminum duties. The EU’s suspension of retaliatory tariffs on U.S. products is scheduled to end on December 1.

## AD/CVD REGULATIONS

The Commerce Department has published a Final Rule making substantial changes to the antidumping and

## 2021 FALL SEMINARS

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

- Import/Export 201: Oct. 19 – 21
- FTZ 101: Nov. 2 – 4
- FTZ 201: Nov. 9 – 11

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.

## HTS 2022 CHANGES

Clients should be preparing for the changes to the Harmonized Tariff Schedule (HTS) at the international heading and subheading levels that take effect on January 1, 2022. The 351 amendments to the HTS nomenclature include new provisions for cell therapy products, placebos and clinical trial kits, diagnostics kits, 3D printers, electric vehicles, drones (UAVs), e-waste, and other items. The World Trade Organization (WTO) has posted an HS Tracker [online tool](#) for tracking changes and the U.S. International Trade Commission (ITC) issued a [report](#) on the changes in April 2021. Contact [Brian Murphy](#) or [Sean Murray](#) with questions or for assistance in classifying your products under the new HTS nomenclature.

## COVID 301 EXCLUSIONS

On September 29, the U.S. Trade Representative (USTR) announced a 45-day extension of China Section 301 product exclusions for certain medical-care products needed to address the COVID-19 pandemic. These product exclusions will now expire on November 14. [86 Fed. Reg. 54011](#) (Sept. 29, 2021).

## WTO COVID REPORT

The World Trade Organization (WTO) has released a [report](#) on trade-related issues involving critical COVID-19 relief products. The report indicates that export restrictions on vaccine inputs, a lack of predictability in the administration of import and export restrictions placed on COVID-19 relief products, and high tariffs have impacted COVID-19 vaccine products.

## CHILD LABOR REPORTS

The Labor Department has requested information and comments on three reports on the use and prevention of child and forced labor. Information must be submitted by January 15, 2022. [86 Fed. Reg. 56293](#) (Oct. 8, 2021).

## FTZ MANUAL UPDATES

The U.S. Customs & Border Protection (CBP) Regulations require FTZ Operations Manuals to be up to date. The firm has structured a new, expedited update process. Manual updates can be completed by year-end. Contact [Bryan Brown](#) or [Linda King](#) with questions and to arrange updates.

## FTZ COMPLIANCE REVIEWS

At the NAFTA Virtual Annual Conference in September, Foreign Trade Zones Board Executive Secretary Andrew McGilvray, confirmed that the FTZ Board continues to review firms that have received Production Authority. Mr. McGilvray specifically noted that FTZ Scopes of Authority are limited to what was submitted and approved by the Board. The Board requests documentation to confirm that merchandise being admitted to the zone and finished products being entered are within the Scope of Authority. Contact [Marshall Miller](#) or [Scott Taylor](#) to discuss FTZ scope management.

## FTZ PRODUCTION APPROVALS

The firm has recently secured interim production authority approval from the FTZ Board for clients in a matter of days. As supply chain issues have been challenging, there have been several instances of last-minute shipments with Customs duty impacts. In the past, companies would have just paid the Customs duties, but with the Interim Approval Process, we can help secure an expedited approval. Contact [Scott Taylor](#) for assistance.

## CBP FTZ RECORD ENHANCEMENT

At the NAFTA Virtual Annual Conference, James Swanson, CBP Director of Cargo Security & Control, indicated that new software is being developed that would provide CBP ports with CBPF 214 and Customs entry information on a current basis to allow complete FTZ oversight. Presently, CBPF 214 data is not available to FTZ Operators.

## CUSTOMS BILLS

CBP has issued a notice that, beginning October 18, it will deploy a new report in the Automated Commercial Environment (ACE) that allows ACE account users (importers, brokers) to electronically view certain unpaid bills. CBP will also transition to a new bill format that includes additional information, such as the legal authority for the bill. [86 Fed. Reg. 56968](#) (Oct.

countervailing duty (AD/CVD) regulations, effective beginning October 20. These changes involve modifications to the initiation comment period for industry support, new shipper reviews, scope rulings, circumvention, covered merchandise, and reimbursement certifications. Commerce has published a [summary](#) of the modifications. Contact [Brian Murphy](#) or [Bryan Brown](#) with questions. 86 [Fed. Reg. 52300](#) (Sept. 20, 2021).

#### USER FEES AIRPORTS

CBP has added Witham Field Airport in Stuart, Florida, Plattsburgh International Airport in Plattsburgh, New York, and Fort Worth Meacham International Airport in Fort Worth, Texas to the list of user fee airports, while removing Griffiss International Airport in Rome, New York and Cobb County International Airport in Kennesaw, Georgia. The firm has structured a number of User Fee Airports to provide local Customs services. Contact [Scott Taylor](#) for information. 86 [Fed. Reg. 52823](#) (Sept. 23, 2021).

#### CRYPTOCURRENCY

Virgil Griffith, a U.S. national residing in Singapore, [pleaded guilty](#) on September 27 to helping North Korea avoid U.S. sanctions through the use of cryptocurrency. Mr. Griffith will be sentenced in January 2022.

#### DEUTERIUM

The Bureau of Industry and Security (BIS) has issued a Final Rule, effective December 6, that moves jurisdiction over the export of some deuterium ("heavy water") from the Nuclear Regulatory Commission (NRC) to the Commerce Department and the Export Administration Regulations (EAR). Deuterium used in nuclear end uses will remain under NRC jurisdiction, as will plants and equipment used in the production of deuterium. 86 [Fed. Reg. 55492](#) (Oct. 6, 2021).

#### RARE EARTH INVESTIGATION

On September 24, the Commerce Department announced an investigation under Section 232 of the Trade Expansion Act of 1962 to determine the effects on national security of the import of neodymium-iron-boron permanent magnets. Interested parties may submit comments by November 12. 86 [Fed. Reg. 53277](#) (Sept. 27, 2021).

#### CUSTOMS FRAUD

The Justice Department has [announced](#) the indictment of an apparel company CEO, alleging that he had undervalued shipments through double invoicing to avoid payment of Customs duties. The U.S. District Court for the Southern District of New York has also unsealed a civil complaint filed under the False Claims Act alleging the same scheme.

#### LACEY ACT ENFORCEMENT

The implementation of Phase VI of the Lacey Act enforcement schedule began on October 1. Declarations are not required for used, recycled, or reclaimed pallets used to carry imported goods into the United States. CSMS #[49611833](#) (Sept. 28, 2021). Contact [Brian Murphy](#) with questions.

#### BOYCOTT COUNTRY LIST

#### FORCED LABOR

The Department of Homeland Security (DHS) has [posted](#) a report to Congress on establishing timelines for forced labor petition reviews.

#### CHINA PRODUCT EXCLUSIONS

China has [extended](#) 81 product exclusions on U.S. products imported into China, including shrimp and electric vehicle batteries, to April 16, 2022.

#### EXPORT FALSE STATEMENTS

BIS has issued an [Order](#), dated October 12, that approved the terms of a Settlement Agreement with VTA Telecom Corp., a California company that is a subsidiary of a Vietnamese state-owned telecom company. VTA was fined \$1.87 million for making false statements in license applications and end-use statements for the export of actuators, transistors, and development tools to Vietnam.

#### USMCA AUTO RULES

Showing the nuances of the USMCA auto rules, CBP has issued a ruling that heavy truck starters assembled in Mexico qualify for USMCA preferential treatment under a tariff shift rule when used as aftermarket parts, but must meet regional value content (RVC) requirements when used as original equipment. Contact [Brian Murphy](#) with questions. HQ [H313365](#) (Sept. 30, 2021).

#### BUY AMERICAN

The General Services Administration (GSA), The Department of Defense, and NASA have extended the deadline for comments on the proposed amendments to the Federal Acquisition Regulations to October 28. 86 [Fed. Reg. 52871](#) (Sept. 23, 2021).

#### TELECOM COMMENTS

The Bureau of Industry and Security (BIS) is requesting comments from industry on risks in the information and communication technology (ICT) supply chain. BIS is specifically looking for information related to critical "hardware that enables terrestrial distribution, broadcast/ wireless transport, satellite support, data storage," and mobile devices. Comments are due by November 4. 86 [Fed. Reg. 52127](#) (Sept. 20, 2021).

#### FAQS ON ICS

BIS has [issued](#) two frequently asked questions (FAQs) on radiation hardened integrated circuits (ICs).

#### GENE SOFTWARE

BIS issued two Final Rules on October 5. The first updates the Commerce Control List (CCL) to add controls on nucleic acid assembler and synthesizer software capable of designing and building functional genetic elements from digital sequence data. This change aligns U.S. controls with other Australia Group members. The second makes minor corrections and clarifications to 11 parts of the Export Administration Regulations (EAR). 86 [Fed. Reg. 54814](#) and [54807](#) (October 5, 2021).

#### PROTEST FILINGS

CBP has provided guidance on its preferences for receiving data in Protest

13, 2021).

#### CPTPP MEMBERSHIP

On September 22, Taiwan formally applied to join the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), the free trade agreement between Mexico, Japan, Singapore, New Zealand, Canada, Australia, Vietnam, and Peru. Taiwan's application came one week after China applied for membership. The FTA was originally negotiated as the TPP during the Obama Administration, but President Trump withdrew the U.S. from the agreement. The Biden Administration has yet to decide if it will seek U.S. membership. Contact [Marshall Miller](#) with questions.

#### VIETNAM TIMBER 301

On October 1, USTR [announced](#) an agreement with Vietnam to address U.S. concerns regarding illegally harvested or traded timber. USTR determined that the agreement provides a satisfactory resolution to the issues in the Section 301 investigation into Vietnam's timber sector. As a result, retaliatory tariffs against Vietnamese goods will not go into effect.

#### TIB & DUTY DEFERRAL

CBP has issued a ruling that computer numerically controlled (CNC) lathes imported into the U.S. from China and Germany for modification and then sold for export to Canada or Mexico were eligible for temporary importation under bond (TIB) because the modifications constitute "processing." CBP also determined that the lathes were subject to the NAFTA and USMCA duty deferral restrictions. HQ [H293258](#) (Sept. 13, 2021).

#### WOODEN CABINETS EAPA

On September 16, CBP [issued](#) a final determination of antidumping and countervailing duty (AD/CVD) evasion for four wooden kitchen cabinet importers under the Enforce and Protect Act (EAPA). CBP determined that there was substantial evidence that the importers had transshipped China-origin wooden kitchen cabinets through Malaysia to avoid the duties.

#### ARMS TO ETHIOPIA AND ERITREA

On September 17, the Directorate of Defense Trade Controls (DDTC) published a [notice](#) that it is updating the International Traffic in Arms Regulations (ITAR) to reflect the fact that license requests for defense items or services to Ethiopia and Eritrea face a policy of denial.

#### ETHIOPIA EXECUTIVE ORDER

On September 17, President Biden issued Executive Order (EO) 14046 authorizing the Treasury Department to impose sanctions on any person or entity that contributes to the unrest in Northern Ethiopia. 86 [Fed. Reg. 52389](#) (Sept. 21, 2021).

#### EXPORT MANIFESTS

CBP [announced](#) on September 21 that its pilot program for electronically filing export manifests will be extended until the program becomes mandatory for all exporters. When the program becomes mandatory, CBP intends to update its

The Treasury Department has published its current list of countries may require participation in an international boycott. The listed countries are Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, and Yemen. 86 [Fed. Reg. 56354](#) (Oct. 8, 2021).

**FDA ACE SUPPLEMENTAL GUIDE**

An updated version of the FDA ACE Supplemental Guide (v.2.5.5) has been posted. CSMS [#49499663](#) (Sept. 21, 2021).

filings. Customs indicates that filings should be accompanied by a spreadsheet with the entry number, entry line, original entry data that is being protested, and the amended data that is the subject of the Protest. CSMS [#49573954](#) (Sept. 24, 2021).

· CBP has been facing a massive increase in Protest filings due to the Section 232 and 301 trade remedies, and decisions have been delayed. Contact [Brian Murphy](#) or [Sean Murray](#) with questions or for assistance in filing Protests.

regulations to allow it to better monitor, trace, and prove exports using the export manifests. A firm timeline for the changes was not provided, but they are not expected before year end.

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FTZ STATS  
FOREIGN-TRADE ZONES BOARD  
ACTIVITY AS OF 10/15/2021

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	Approved
Zones	297
Subzones*	872
Pending	
Zones	3
Subzones	11
Misc.	35

\*From Federal Register Notices