



EU STEEL AND ALUMINUM DUTIES

The new Tariff-Rate Quota (TRQ) system is scheduled to go into effect for steel and aluminum imports from the EU on January 1, 2022.

The National Association of Foreign-Trade Zones (NAFTZ) is negotiating with the Commerce Department, FTZ Board, U.S. Trade Representative (USTR), and U.S. Customs & Border Protection (CBP) to structure a special FTZ TRQ management process to be implemented on January 1 for FTZ warehousing and production operations. The NAFTAZ has [requested](#) that FTZ Users and Grantees provide information on whether they have admitted or plan to admit steel and aluminum from the EU that is subject to the Section 232 duties. Contact [Marshall Miller](#) or [Brian Murphy](#) with questions.

UK STEEL AND ALUMINUM DUTIES

On December 8, Commerce Secretary Gina Raimondo and UK International Trade Secretary Anne-Marie Trevelyan met to [discuss](#) the Section 232 additional duties on UK steel and aluminum. While no deal has been reached to remove these duties, both parties suggested that they would work together to resolve the dispute.

SECTION 232 EXCLUSIONS

Clients are reminded that the process to request Section 232 product exclusions on aluminum (10%) and steel (25%) remains available. The exclusion process may provide a good alternative to managing EU imports under the Tariff-Rate Quota process that goes into effect on January 1. Contact [Brian Murphy](#) or [Bryan Brown](#) with questions.

SECTION 232 GAE EXCLUSIONS

The Commerce Department has published an Interim Final Rule that announced the removal of 31 General Approved Exclusions (GAEs) for steel and aluminum covered by the Section 232 additional duties. Commerce stated that the products no longer meet the GAE criteria. The rule goes into effect on December 27, 2021. 86 Fed. Reg. [70003](#) (Dec. 9, 2021).

CBP COMMISSIONER

On December 13, Chris Magnus was sworn in as CBP Commissioner. He was confirmed by the Senate on December 7 by a 50 - 47 vote. Commissioner Magnus was formerly the police chief of Tucson, Arizona and is the first permanent CBP Commissioner since Kevin McAleenan left the position in 2019.



**Seasons Greetings &
Best Wishes for a
Happy New Year!**

2022 YEAR-END CHECKLIST

Clients are reminded to review the Firm email on year-end [tasks](#) that was sent on December 2 and is posted at "What's New" on the Firm website to confirm necessary year-end actions and develop 2022 plans.

NEW 2022 HTS

The revised 2022 [HTS](#) goes into effect on January 1, 2022. There are 351 amendments, including 77 to the agricultural sector, 58 to the chemical sector, 31 to the wood sector, 21 to the textile sector, and 63 to the machinery sector. Clients should be determining the impact and providing new classifications to their brokers for use beginning January 1. Contact [Sean Murray](#) or [Brian Murphy](#) with questions.

SUPPLY CHAIN REPORT

On November 10, the Congressional Research Service (CRS) [published](#) a short report on the supply chain issues at U.S. ports. The report details disruptions to CBP processes, container flows, port inefficiencies, equipment and driver shortages, container fees, and inadequate Dept. of Transportation (DOT) data collection.

SUPPLY CHAIN INVESTIGATION

On November 29, the Federal Trade Commission (FTC) [ordered](#) Wal-Mart, Kroger, Amazon, and other large wholesalers to provide detailed information on the primary factors disrupting their ability to obtain, transport, and distribute products, as well as the impact these disruptions are having on increased costs and prices.

EPA HFC REQUIREMENTS

New restrictions on the importation of hydrofluorocarbons (HFCs) go into effect on January 1, 2022. Required data elements - including the Chemical Abstracts Service (CAS) number - must be filed in ACE 14 days prior to importation. The Environmental Protection Agency (EPA) has posted a [fact sheet](#) summarizing the new requirements. Contact [Bryan Brown](#) or [Sean Murray](#) with questions. CSMS [#50274160](#) (Dec. 3, 2021).

AES CHANGES

The Census Bureau has issued a Proposed Rule that would require the specific country of origin to be declared for foreign origin goods in the Automated Export System (AES). Census says the proposed change is to provide more information on trade flows and supply chains. Census is also proposing other clarifying revisions, such as amending the FTZ identifier to allow 9-digit submissions. Comments are due by February 14, 2022. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions. 86 Fed. Reg. [71187](#) (Dec. 15, 2021).

UYGHUR FORCED LABOR

On December 14, Senate and House lawmakers reached agreement on compromise [text](#) for the Uyghur Forced Labor Prevention Act. The compromise bill is expected to be passed quickly by both houses and sent to President Biden for signature. In addition to requiring a public comment period on supply chain traceability measures to prevent the importation of goods made in China with forced labor, the bill creates a rebuttable presumption that goods from the Xinjiang region of China or by designated entities are made with forced labor. Importers would need to provide "clear and convincing evidence" that goods were not made with forced labor. Contact [Sean Murray](#) with questions.

HUMAN TRAFFICKING

On December 3, President Biden released a [revised](#) National Action Plan to Combat Human Trafficking. As part of the plan, the U.S. Trade Representative has been directed to use all available options to combat forced labor through the identification and prevention of human trafficking in supply chains and increased efforts to prohibit goods made with forced labor from entering the U.S.

WTO IMF COVID

The World Trade Organization (WTO) and International Monetary Fund (IMF) have [launched](#) a new database on the cross-border flow of COVID-19 vaccines.

WTO MINISTERIAL

Due to restrictions on flights from Southern Africa to Switzerland related to the Omicron COVID-19 variant, the World Trade Organization (WTO) postponed the Ministerial Conference scheduled for November 30, 2021.

SECTION 301 LITIGATION

CBP has provided guidance on the processing of entries covered by court challenges to the China Section 301 List 3 and/or 4A duties. CBP will deny liquidation extension requests for entries covered by the litigation, but will suspend the processing of Protests filed for entries subject to the litigation. Contact [Brian Murphy](#) or [Sean Murray](#) with questions. CSMS #[50264295](#) (Dec. 2, 2021).

301 PRODUCT EXCLUSIONS

On November 16, USTR announced that it would extend 81 COVID-19 related China Section 301 product exclusions until May 31, 2022. 86 [Fed. Reg. 63438](#) (Nov. 16, 2021).

INACCURATE ISF FILINGS

The National Customs Brokers & Forwarders Association of America, Inc. (NCBFAA) reported in its December 6 eBriefing that CBP has assessed liquidated damages for Importer Security Filings (ISF) containing HTS classifications that were not consistent with the HTS classifications declared on the corresponding CBP entry. ISF Filers are reminded of their obligation to update inaccurate information in ISF filings, as set forth in 19 C.F.R. § 149.2(d). Contact [Sean Murray](#) with questions.

INFORMED COMPLIANCE

Clients are reminded that CBP has prepared [Informed Compliance Publications](#) on a wide range of import-related issues. CBP has recently reorganized the publications based on the corresponding Center of Excellence and Expertise.

O CHRISTMAS TREES

The Christmas Tree Promotion Board has provided information on the appropriate classification of imported Christmas trees, wreaths, and boughs. CSMS #[50141844](#) (Nov. 22, 2021).

SPANISH OLIVES

On November 19, a World Trade Organization (WTO) Dispute Settlement Panel [found](#) that the United States violated WTO rules when it imposed antidumping and countervailing duties (AD/CVD) on Spanish ripe olives. The WTO Panel determined that the Commerce Department did not properly analyze how EU agricultural subsidies were allocated to Spanish producers.

VENEZUELAN GL 8I

On November 24, the Office of Foreign Assets Control (OFAC) issued [General License \(GL\) 8I](#), replacing GL 8H. GL 8I allows the wind down of some operations with PDVSA.

CURRENCY MANIPULATION

On December 3, the Treasury Department [released](#) its biannual report on the foreign exchange policies of major U.S. trading partners. Treasury declined to designate any U.S. trading partners as currency manipulators, but determined that Vietnam and Taiwan met the criteria. Switzerland, which had previously been found to meet the criteria without being officially designated, was found to no longer meet the criteria. The Treasury

ENTITY LIST

On November 26, the Bureau of Industry and Security (BIS) issued a Final Rule that added 27 new entities to its Entity List and one new entry to the Military End User (MEU) List based on concerns involving Chinese military quantum computing, Pakistani nuclear and missile proliferation, and the Russian military. The new entities are in China, Japan, Pakistan, Singapore, and Russia. 86 [Fed. Reg. 67317](#) (Nov. 26, 2021).

USMCA EV CONCERNS

Canada has delivered a [letter](#) to Senators that objects to a provision in the House version of the Build Back Better Act that would provide electric vehicle (EV) tax credits on U.S. union-built cars. Canada promised various retaliatory measures if the issue is not addressed in the final legislation.

U.S. PACIFIC TRADE

On November 16, Commerce Secretary Gina Raimondo [met](#) with Singapore, Australia, and New Zealand trade officials and indicated a continued interest in working with Pacific partners on trade issues. While Secretary Raimondo did not indicate a willingness to join the CPTPP, she did indicate a desire to establish an Indo-Pacific economic framework to facilitate cooperation on shared economic objectives in the region.

INDIA DST

USTR has published a Notice of its termination of the Section 301 investigation into India's Digital Services Tax ("DST") including, effective November 28, the termination of additional duties on Indian goods under HTSUS subheading 9903.90.03. USTR terminated the action based on commitments by India to remove its DST and related measures pursuant to its membership in the OECD/G20 Inclusive Framework on Base Erosion and Profit Sharing (BEPS). 86 [Fed. Reg. 68526](#) (Dec. 2, 2021).

SYRIAN SANCTIONS

OFAC [announced](#) on November 24 that it had updated the Syrian Sanctions Regulations to expand authorizations of some nongovernment organizations activities. OFAC also published two new frequently asked questions. (FAQs) [937](#) and [938](#).

COUNTERFEIT GOODS

On December 2, CBP [announced](#) that it had seized over \$30 million in designer handbags, purses, and backpacks bearing counterfeit luxury trademarks, such as Gucci, Chanel, and Louis Vuitton.

BELARUS

On December 2, OFAC published [Directive 1](#) and [General License \(GL\) 5](#) for Belarus. [Directive 1](#) prohibits most new debt over 90 days with the Ministry of Finance of Belarus or the Development Bank of the Republic of Belarus. GL 5 allows the wind down of operations with the Belarusian Potash Company and Agrorozvit LLC. In addition, OFAC published 10 new frequently asked questions. (FAQs 939-948) and modified [FAQ 918](#).

SENSETIME

On December 10, the Office of Foreign Assets Control (OFAC) [added](#) SenseTime Group Ltd. to its list of Non-Specially Designated Nationals Chinese Military Industrial-Complex Company (CMIC) List. One of its subsidiaries, Shenzhen SenseTime Technologies, develops artificial intelligence facial recognition systems that are used to identify Uyghurs and other minorities in China.

CYBER ACTIVITIES

OFAC [announced](#) on November 24, that it was sanctioning the Iranian cyber company Emennet Pasargad for activities interfering with U.S. elections. In addition to adding Emennet Pasargad to the Specially Designated Nationals (SDN) List, OFAC also added six of its employees.

SOLAR SAFEGUARDS

On November 24, the U.S. International Trade Commission (ITC) [determined](#) that the U.S. crystalline silicon photovoltaic (CSPV) cell industry requires further import relief to prevent or remedy serious injury. The ITC report recommends a four-year extension of the Section 201 solar safeguard tariffs with the duty rate on out-of-quota solar cells decreasing to 14% in 2026, as well as a change from annual to quarterly quota periods. The final decision on whether to extend the solar safeguards will be made by President Biden. ITC Inv. No. [TA-201-75](#) (Dec. 2021).

BIS SUED

Exmar Marine NV ("Exmar"), a Belgian company, is [suing](#) the Bureau of Industry and Security (BIS), alleging violations of its due process rights under the Fifth Amendment and illegal seizure under the Fourth Amendment because BIS is prohibiting Exmar from selling an aircraft that is held in a trust owned by Aircraft Guaranty Corporation ("AGC") for which Exmar is the beneficial owner. BIS is prohibiting the release of the aircraft's bill of sale based on a seven-count [indictment](#) against AGC for, among other things, conspiracy to commit export violations for knowingly failing to file Electronic Export Information (EEI).

232 TURKISH STEEL

Transpacific Steel has filed a Petition for a Writ of Certiorari at the U.S. Supreme Court to challenge the U.S. Court of Appeals for the Federal Circuit's determination that President Trump's decision to increase duties on Turkish Steel outside of statutory timelines was permissible under Section 232. [Transpacific Steel, LLC v. U.S.](#), Case No. [21-721](#) (Nov. 12, 2021).

CAMBODIA

On December 8, BIS and the Directorate of Defense Trade Controls (DDTC) imposed new export restrictions on Cambodia. Specifically, BIS placed restrictions on military end-uses like those currently in effect on China, Russia, and Venezuela in Part 744.21 of the Export Administration Regulations (EAR). The DDTC has imposed an arms embargo on Cambodia. 86 [Fed. Reg. 70015](#) and [70053](#) (Dec. 9, 2021).

AFGHAN REMITTANCES

Department will monitor Swiss foreign exchange policies.

RUSSIA SANCTIONS

On November 22, the State Department [designated](#) Transadria Ltd. as a Russia-linked entity under the Protecting Europe's Energy Security Act of 2019 (PEESA) for its involvement in the construction of the Nord Stream 2 pipeline.

CONTAINER CHARGES

On November 10, the Federal Maritime Commission (FMC) issued a Notice of investigation and hearing into whether Hapag-Lloyd has violated the Shipping Act "by failing to establish, observe, and enforce just and reasonable regulations and practices relating to its assessment of charges on containers when return locations with corresponding appointments were unavailable." 86 [Fed. Reg. 64203](#) (Nov. 17, 2021).

On December 10, OFAC announced a new General License (GL), [GL 16](#), which allows personal remittances for non-commercial transactions in Afghanistan. OFAC has also issued amendments to two frequently asked questions (FAQs), [FAQ 931](#) and [949](#).

FTZ STATS

FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 12/15/2021

	Approved
Zones	297
Subzones*	873
Pending	
Zones	4
Subzones	11
Misc.	36

*From [Fed. Reg. Notices](#)