



FORCED LABOR

The Department of Homeland Security (DHS) has issued a request for public comments, as required by the Uyghur Forced Labor Prevention Act, on how to ensure that articles mined or produced wholly or in part with forced labor in China are not imported into the U.S. Clients are encouraged to review the detailed request and consider filing comments because they can impact the government report and enforcement efforts beginning in June. Comments are due by March 10. Contact [Sean Murray](#) with questions or for assistance. 87 Fed. Reg. [3567](#) (Jan. 24, 2022).

On January 28, CBP issued a formal Finding that certain palm oil and derivative products were produced by Sime Darby Plantation Berhad using forced labor. This determination comes after CBP made a preliminary decision and issued a Withhold Release Order (WRO) in December. Imported products within the scope of the WRO are subject to seizure and forfeiture. 87 Fed. Reg. [4636](#) (Jan. 28, 2022).

On January 28, CBP issued a Finding that certain seafood has been harvested using forced labor by the vessel Da Wang. Imports are subject to seizure and forfeiture. 87 Fed. Reg. [4635](#) (Jan. 28, 2022).

USITC FTZ INVESTIGATION

The U.S. International Trade Commission (ITC) has posted Notice of Investigation No. [332-588](#) on foreign-trade zones. It includes deadlines for participation at the May 17 public hearing. The U.S. Trade Representative (USTR) requested that the investigation cover the effects of FTZ policies and practices on U.S. firms operating in U.S. FTZs and under similar programs in Mexico and Canada. The National Association of Foreign-Trade Zones (NAFTZ) is actively preparing written submissions and public hearing testimony. Contact [Marshall Miller](#) if you are interested in appearing or filing statements.

UKRAINE AND RUSSIA

With President Biden and European leaders preparing to impose severe [sanctions](#) if Russia invades Ukraine, companies with Russia- and Ukraine-related business should review their risks and develop contingency plans. Contact [Bryan Brown](#), [Sean Murray](#), or [Chuck Ballard](#) with questions.

APHIS PHYTO CERTS

The Animal and Plant Health Inspection

2022 TRAINING SEMINARS

Due to COVID-19, our spring and fall training seminars will again be conducted by webinar only.

Spring

- FTZ 101 – March 1 – 3
- FTZ 201 – March 8 – 10
- Import/Export 101 – April 12 – 14
- Import/Export 201 – April 19 – 21

Fall

- FTZ 101 – Oct. 18 – 20
- FTZ 201 – Oct. 25 – 27
- Import/Export 101 – Nov. 8 – 10
- Import/Export 201 – Nov. 15 – 17

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.

FTZ ID 9-DIGIT NUMBER

As of March 19, the 9-digit Expanded Zone ID must be used for FTZ e-214 admissions, FTZ entries, and FTZ exports. The 9-digit Expanded Zone ID is in the legacy ACE Portal now, will be in the Modernized ACE Portal on February 21, and can be secured from an ABI rep or CBP Officer. CSMS Messages [#50858555](#) (Jan 8, 2021) and [#50907635](#) (Feb. 2, 2022). Contact [Linda King](#) with questions.

USMCA AUTOS

USTR has requested comments from interested parties on the operation of the USMCA with respect to automotive goods, specifically including the USMCA automotive rules of origin. Comments are due by March 28. 87 Fed. Reg. [7896](#) (Feb. 10, 2022).

232 EXCLUSIONS

On February 10, BIS requested comments on the Section 232 exclusion process for steel and aluminum from the EU. BIS requests specific information on the responsiveness of the exclusions process to market demand and seeks increased consultation with U.S. firms and labor organizations. Comments are due by March 28. 87 Fed. Reg. [7777](#) (Feb. 10, 2022).

FTZ SEC. 232 TRQs

Foreign-trade zone clients are reminded that aluminum and steel subject to European Union Section 232 tariff-rate quotas (TRQs) admitted into FTZs after January 1 may only be in Privileged Foreign (PF) Zone Status, which permanently fixes a 10% or 25% duty respectively on the merchandise upon entry for consumption, even if the TRQ is open for duty free entries.

2022 HTSUS

On January 27, the complete revised 2022 [HTSUS](#) was issued. Clients are encouraged to very carefully examine the changes. Clients are identifying multiple questions and issues.

CBP has issued guidance on the treatment of China Section 301 and Section 201 safeguard imports impacted by 2022 HTSUS classification changes. CSMS Messages [#50834787](#) (Jan. 26, 2022) and [#50833017](#) (Jan. 26, 2022).

USTR has made three amendments to Section 301 product exclusions to conform them to changes in 2022 HTSUS. 87 Fed. Reg. [4704](#) (Jan. 28, 2022).

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

AES 2022 HTS UPDATES

The Census Bureau has [announced](#) that all HTS 2022 updates to the Schedule B and Harmonized Tariff Schedule were available for use in the Automated Export System (AES) beginning February 10. AES will accept shipments with outdated codes for thirty days.

AES FILINGS – PUERTO RICO

The Census Bureau has announced that, after discussions with stakeholders and considering the comments received in response to its [Advance Notice of Proposed Rule Making](#) of Sept. 17, 2020, it will continue to require submission of Electronic Export Information (EEI) in AES for shipments between the U.S. and Puerto Rico and the U.S. Virgin Islands. 87 Fed. Reg. [6440](#) (Feb. 4, 2022).

MODERNIZED ACE PORTAL

The first phase of the four-phase [ACE Portal Modernization](#) was successfully deployed on January 22. It includes a new login screen, a new home page, and upgraded user account information display and edit features. CBP has reminded users to log in to the modernized [ACE Portal](#) and create a new account before February 20 when the legacy ACE Portal will no longer be available for use. Contact [Brian Murphy](#) or [Brenda Zeller](#) with questions. CSMS [#5102571](#) (Feb. 14, 2022).

SECTION 232 DOCUMENTATION

CBP has reminded importers to submit mill certificates, metal composition statements, and certificates of analysis for imports of steel and aluminum. The documents are necessary for Section 232 duty and quota requirements,

Service (APHIS) is extending its acceptance of electronic copies of phytosanitary certificates and forms until September 30. CSMS [#51027026](#) (Feb. 14, 2022).

FDA DRUG FACILITIES

The General Accountability Office (GAO) has issued a report recommending that the Food and Drug Administration (FDA) improve its inspections of foreign and domestic drug manufacturers. The FDA has announced plans to begin a pilot program in 2022 to conduct unannounced inspections of foreign drug facilities to address concerns that facilities in China and India are evading FDA enforcement. [GAO-22-103611](#) (Jan. 2022).

CHINA UVL ADDITIONS

On February 8, BIS added 33 Chinese entities to its Unverified List (UVL). Entities include technology, electronics, and biologic companies, as well as universities. Persons must obtain a UVL statement before transferring anything to one of these entities, even if the product is EAR99. License exceptions may not be used. Being on the UVL should always be considered a red flag. 87 [Fed. Reg. 7037](#) (Feb. 8, 2022).

ENTITY LIST ADDITIONS

On February 14, BIS added 7 entities from China, Pakistan, and the United Arab Emirates (UAE) to the Entity List. 87 [Fed. Reg. 8180](#) (Feb. 14, 2022).

REUSABLE CONTAINERS

Clients are reminded that containers or holders and their accessories that are capable of repeated use in the international transportation of merchandise may qualify as Instruments of International Traffic ([19 U.S.C. § 1322\(a\)](#) and [19 C.F.R. § 10.41a](#)) and be released without entry or duty payment under HTSUS subheading [9803.00.50](#). Common examples include skids, pallets, tiedown straps, certain collapsible steel racks, and hand trucks. Contact [Bryan Brown](#), [Brian Murphy](#), or [Sean Murray](#) with questions.

NEW OFAC PENALTY LIMITS

To account for inflation, the Office of Foreign Assets Control (OFAC) has raised the penalties on violations pursuant to the International Emergency Economic Powers Act (IEEPA) from \$311,562 to \$330,947. Penalties were also raised for violations of other statutes. 87 [Fed. Reg. 7369](#) (Feb. 9, 2022).

FOREIGN DIRECT PRODUCT RULE

BIS has issued a Final Rule to reorganize, clarify, and correct regulations related to the Foreign Direct Product (FDP) Rule. 87 [Fed. Reg. 6022](#) (Feb. 3, 2022).

EMERGING TECH LIST

The White House has [released](#) an updated list of critical and emerging technologies. This list is created to help guide efforts to promote U.S. technological leadership amid technology competition with China. BIS is expected to issue new controls covering emerging and foundational

Use of a bonded warehouse for storage permits a zero duty rate when a TRQ is open. We are advising clients of the advantages of using a bonded warehouse for storage and distribution under these specific circumstances. We are in the process of establishing multiple new bonded warehouses for clients. Contact [Marshall Miller](#) with questions.

JAPAN STEEL

The U.S. and Japan have [agreed](#) to initiate Section 232 TRQs for Japanese steel beginning April 1. Aluminum is not covered by the agreement.

REQUESTS FOR INFORMATION

CBP has announced changes to the process for submitting responses to CBP Forms 28, 29, and 4647. Beginning January 29, users are not able to submit responses through the ACE portal until new ACE updates are deployed in April 2022. CSMS [#50775619](#) (Jan. 20, 2022).

AMS IN ACE

The electronic filing of Agricultural Marketing Service (AMS) marketing order information in ACE becomes mandatory on February 28. Entries will be rejected for any HTSUS classification flagged "AM4" for which AMS ACE PGA message set data is not provided. CSMS [#50885279](#) (Jan. 31, 2022).

AFGHANISTAN FAQs

OFAC has issued seven (7) [frequently asked questions \(FAQs\)](#) regarding humanitarian assistance to Afghanistan. The guidance allows cash and bank transfers for transactions related to water systems that benefit the public and for salaries for healthcare workers and teachers, even if payment must go through the Taliban or Haqqani networks.

ITAR PENALTY

The Directorate of Defense Trade Controls has [fined](#) Torrey Pines Logic (TPL) \$840,000 after TPL agreed that it had exported sensors appearing on the U.S. Munitions List (USML) to China and Lebanon. In addition, TPL failed to keep adequate records, engaged in unauthorized activities, and failed to register with the DDTC.

RESIDENTIAL WASHERS

On February 8, a World Trade Organization (WTO) Panel [concluded](#) that the U.S. made numerous errors in adopting the safeguards on large residential washing machines from South Korea. The U.S. may appeal the case, but due to the U.S. blockade on appointments to the WTO Appellate Body, there would be no binding decision.

CUSTOMS BROKER INDICTED

On February 10, the Justice Department [announced](#) the indictment of customs broker Frank Seung Noah. Mr. Noah is charged with evading \$1.5 million in taxes and engaging in a \$3.4 million wire fraud scheme that overcharged clients.

BRAZIL TRADE

On February 2, USTR [announced](#) that the U.S.-Brazil Protocol Relating to

product exclusions, melt and pour requirements, and antidumping and countervailing duties. Contact [Brian Murphy](#) with questions. CSMS [#50930928](#) (Feb. 4, 2022).

DDTC GUIDELINES

The Directorate of Defense Trade Controls (DDTC) has released updated [Guidelines](#) for Preparing Agreements which includes Technology Assistance and Manufacturing License Agreements (TAA/MLAs). The new guidelines do not change the regulations, but provide much shorter and more streamlined guidance.

DTAG

DDTC is accepting applications until February 25 for membership on the Defense Trade Advisory Group (DTAG). 87 [Fed. Reg. 6227](#) (Feb. 3, 2022).

CHINESE MISSILE PROLIFERATION

The State Department has placed sanctions on three Chinese companies for suspected missile proliferation activities. Pursuant to the sanctions, none of these entities will be granted an export license, none can be granted a U.S. government contract, and their products may not be imported into the U.S. 87 [Fed. Reg. 3376](#) (Jan. 21, 2022).

ITAR AMENDMENTS

The State Department has proposed changes to several provisions in the International Traffic in Arms Regulations (ITAR). Most notably, prior citizenship and prior permanent residency would no longer be considered in determining whether a license is required for releases of technical data to foreign persons under the deemed export and reexport rules. Comments are due by April 4. Contact [Bryan Brown](#) or [Chuck Ballard](#) with questions. 87 [Fed. Reg. 5759](#) (Feb. 2, 2022).

BURMA TRADE ADVISORY

Six federal agencies jointly published a [Business Advisory](#) on January 26 warning of the heightened risks of doing business in Burma. Four sectors of greatest concern were identified: state-owned enterprises; gems and precious metals; real estate and construction projects; and arms, military equipment, and related activity.

ETHIOPIA SANCTIONS REGS

OFAC has issued the Ethiopia Sanctions Regulations (31 C.F.R. Part 550), which target individuals and entities believed to be involved in human rights violations in Ethiopia. 87 [Fed. Reg. 7374](#) (Feb. 9, 2022).

CRIMINAL SANCTIONS REGS

OFAC has announced updates to the Transnational Criminal Organizations Sanctions Regulations, 31 C.F.R. Part 590, effective January 21. 87 [Fed. Reg. 3207](#) (Jan. 21, 2022).

TRADE SECRETS

On February 7, the Justice Department [announced](#) the indictment of Hytera Communications Corp. for allegedly conspiring with former Motorola employees to steal digital mobile radio technology developed by Motorola.

technologies soon.

IRAN PENALTY

On January 27, the Department of Justice [announced](#) that Mr. Saber Fakih, a U.K. national, pled guilty to exporting an industrial microwave system and counter-drone system to Iran. Mr. Fakih faces up to 20 years in prison and up to a \$1 million fine.

OFAC BLOCKED PARTIES

On February 3, OFAC added several individuals and entities to its Specially Designated Nationals (SDN) List in separate Federal Register notices. One notice related to the on-going military coup in Myanmar/Burma and the other notice to Russian, Chinese, and North Korean individuals. OFAC also removed one vessel from the SDN List. 87 Fed. Reg. [6239](#), [6240](#), and [6241](#) (Feb. 3, 2022).

Trade Rules and Transparency entered into force. The agreement modernizes a 2011 agreement between the U.S. and Brazil and contains additional commitments on trade facilitation, good regulatory practices, and anti-corruption practices based on the USMCA.

COVID IS NO EXCUSE

The U.S. Court of International Trade remanded to the Department of Commerce its decision not to conduct a verification in an antidumping duty investigation on steel fittings from India, ordering Commerce to explain the inherent inconsistency with senior Commerce officials traveling internationally while civil servants did not conduct the statutorily-required verification, even virtually. [Bonney Forge v. U.S.](#), CIT Slip Op. [22-8](#) (Feb. 2, 2022).

AIRBAGS

On February 2, the Justice Department [announced](#) the indictment of a Dominican Republican national for fraudulently importing counterfeit airbags from China.

FTZ STATS

**FOREIGN-TRADE ZONES BOARD
ACTIVITY AS OF 2/15/2022**

+	
	Approved
Zones	297
Subzones*	874
	Pending
Zones	4
Subzones	11
Misc.	35

*From Fed. Reg. Notices