



## FORCED LABOR

- On June 21, the new rebuttable presumption and the “clear and convincing” evidence standard of the Uyghur Forced Labor Prevention Act (UFLPA) go into effect.
- CBP has posted [“Operational Guidance”](#) to help importers understand the new processes and documentary expectations.
- The Department of Homeland Security will issue the government’s UFLPA Forced Labor strategy on June 21.
- A new list of UFLPA entities will be issued for screening.
- Clients should be reviewing supply chains and suppliers to identify potential issues.
- Contact [Sean Murray](#) or [Brian Murphy](#) with questions.

## INFANT FORMULA

To address the current shortage, The Food and Drug Administration (FDA) has [issued](#) a new enforcement policy that permits the importation of certain infant formula that may not satisfy all regular regulatory requirements. The policy will remain in effect until November 14, 2022. Contact [Sean Murray](#) with questions.

## CHINESE MILITARY FAQs

On June 1, the Office of Foreign Assets Control (OFAC) published three new frequently asked questions (FAQs) related to the Chinese Military-Industrial Complex Sanctions. The new FAQs relate to how financial institutions treat transactions involving stock and securities, dividends, and when interests in these companies must be divested.

## FTZ ITC INVESTIGATION

On May 17, the U.S. International Trade Commission (ITC) held a virtual public hearing in Investigation No. 332-588 on U.S. firms operating in U.S. FTZs and in Canada and Mexico. Eight stakeholders testified, including Jeffrey Tafel, President of the National Association of Foreign-Trade Zones (NAFTZ). Clients are encouraged to submit [public](#) comments by the June 27 deadline on the [draft FTZ questionnaire](#) to be issued by the ITC to FTZ operators with production authority. As drafted,

## BIS RUSSIA CONTROLS

- On June 2, the Bureau of Industry and Security (BIS) published a Final Rule that, among other things, revises Russia and Belarus military end-user and end-uses controls, clarifies the categories of licenses BIS reviews on a case-by-case basis, and allows charging letters to be made public prior to disposition of the underlying case. [87 Fed. Reg. 34131](#) (June 6, 2022).
- Also on June 2, BIS [added](#) or modified 71 entities located in Russia and Belarus, bringing the total number of parties added to the Entity List as a result of Russia’s invasion of Ukraine in February to 322, or roughly 15% of the entire list. [87 Fed. Reg. 34154](#) (June 6, 2022)

## SEC DISCLOSURES

The Securities and Exchange Commission (SEC) has reminded companies that to the extent Russia’s invasion of Ukraine materially impacted their business operations, they may have disclosure obligations. The SEC also provided a [sample letter](#) it may issue in response to disclosures.

## OFAC RUSSIA FAQs

On June 6, OFAC issued [FAQs](#) 1049 through 1055 addressing the “new investment” prohibitions related to Russia in Executive Orders 14066, 14068, and 14071. [FAQ 1049](#) explains transactions considered to be “new investment.” [FAQ 1050](#) explains “maintenance” transactions. [FAQ 1051](#) addresses permissible forms of imports from and exports to Russia of goods, services, and technology. [FAQ 1052](#) explains permissible types of continued funding of U.S. affiliates. [FAQ 1053](#) clarifies forms of “divestment.” • On June 9, OFAC issued [FAQs](#) addressing [certain](#) accounting, trust and corporate formation, and management consulting services related to Russia.

## US AND CANADA ON RUSSIA

On June 7, BIS and the Canadian Border Services Agency (CBSA) issued a joint news [release](#) announcing their renewed focus on strengthening U.S. and Canadian efforts to prevent the illegal transfer of goods and technology to Russia by leveraging their authorities and resources to detect, deter, and stop violations of export restrictions.

## CBP TRADE SUMMIT

The 2022 Trade Facilitation and Cargo Security Summit will be held in Anaheim, California on July 18-20. CSMS [#52057992](#) (June 2, 2022).

## SHIPPING REFORM ACT

On June 13, the U.S. House passed the new Ocean Shipping Reform [Act](#) of 2022 (S.3580). [President Biden](#) has stated that he plans to sign it into law soon. The Act addresses issues related to supply chain congestion by granting the Federal Maritime Commission (FMC) more authority to investigate [detention and demurrage charges](#) assessed by ocean carriers and [penalize unfair carrier practices](#). It also prohibits carriers, terminal operators, and intermediaries from unjustly refusing cargo and engaging in other unfair or discriminatory actions.

## FMC SUPPLY CHAIN REPORT

The Federal Maritime Commission (FMC) released a [report](#) on May 31 detailing the effects of COVID on the supply chain, its impact on supply and demand, and possible violations made by various logistics and carriers. A number of recommendations are made in the report.

## HAPAG-LLOYD FMC

On June 8, the FMC [announced](#) a \$2 million settlement with Hapag-Lloyd to resolve civil penalties issued for their detention and demurrage practices.

## 301 COVID PRODUCT EXCLUSIONS

The U.S. Trade Representative (USTR) announced the extension of eighty-one COVID-19 related China Section 301 product exclusions that were set to expire on May 31, 2022. The product exclusions will remain in effect until November 30, 2022. [87 Fed. Reg. 33871](#) (June 3, 2022).

## SOLAR PANELS

In a very unusual move, President Biden [announced](#) on June 6, that antidumping/countervailing duties (AD/CVD) will not be collected until 2024 on solar panels from Southeast Asia even if the Commerce Department finds that these products are circumventing the AD/CVD duties on Chinese exports. Contact [Brian Murphy](#) with questions.

## TAIWAN TRADE

The U.S. Trade Representative (USTR) has requested comments on

the questionnaire requires an extensive amount of research and information and will be time-consuming to complete. Contact [Marshall Miller](#) with questions. 87 Fed. Reg. [25294](#) (April 28, 2022).

### TRUCK MANIFESTS

On May 24, CBP announced the deployment of enhancements to the ACE Truck Manifest system. Beginning June 5, all ports are using the modernized system. The legacy truck manifest system is scheduled for retirement on June 20. Contact [Linda King](#) with questions. CSMS #[51986109](#) (May 24, 2022).

### ALUMINUM IMPORTS

Beginning June 29, the Commerce Department will require that aluminum import licensing applications in the Aluminum Import Monitoring (AIM) program include both the "country of largest smelt" and the "country of second largest smelt." Importers will no longer be permitted to enter "unknown". CSMS #[52046238](#) (May 31, 2022).

### CUBA SANCTIONS

OFAC has issued a Final Rule, effective June 9, [liberalizing](#) the Cuban Assets Control Regulations by authorizing certain educational travel and activities, removing the current \$1,000 quarterly limit on family remittances, and authorizing donative remittances. 87 Fed. Reg. [35088](#) (June 9, 2022).

### ENCRYPTION UPDATES

BIS has issued a Final Rule updating an October 2021 Interim Rule on cybersecurity. The new rule makes the Interim Rule permanent and updates definitions in Export Control Classification Number (ECCN) 5D001 and license exception Authorized Cybersecurity Exports (ACE). 87 Fed. Reg. [31948](#) (May 26, 2022).

### SECTION 232

The Court of Appeals for the Federal Circuit (CAFC) has issued an opinion dismissing a challenge to President Trump's imposition of Section 232 steel and aluminum tariffs. The CAFC found that the President has broad discretion to set the nature and duration of Section 232 tariffs. USP Holdings, Inc., et. al. v. U.S., Slip Op. [21-1726](#) (June 9, 2022).

### FALLBACK VALUATION

CBP has issued a ruling permitting the use of fallback valuation for replacement parts or refurbished items where the importer does not reasonably have access to pricing information. Contact [Sean Murray](#) or [Tom Lobred](#) with questions. HQ [H321592](#) (Feb. 4, 2022).

### USMCA DAIRY CONSULTATIONS

On May 25, USTR [announced](#) that the U.S. had requested the initiation of dispute settlement consultations with Canada to address dairy restrictions the U.S.

On June 2, OFAC [designated](#) more prominent Russian government officials, certain yachts and aircraft and related entities as Specially Designated Nationals (SDNs).

### PROLIFERATION SANCTIONS

On May 26, the State Department placed an entity from Russia and two individuals, one from Russia and one from North Korea, on its sanctions list for engaging in proliferation activities. 87 Fed. Reg. [32066](#) (May 26, 2022).

### BANKS & RUSSIA SANCTIONS

On June 14, OFAC updated FAQ [1011](#), which involves banks refusing to process otherwise permissible transactions. The advice is not particularly helpful: contact your financial institution or contact OFAC. Contact [Bryan Brown](#) with questions.

### OFAC RUSSIA GLS

• On June 14, OFAC issued General License [8C](#), authorizing certain transactions related to energy that are otherwise prohibited by Executive Order 14024.

• On May 24, OFAC announced it would not renew General License 9C, set to expire May 25, which authorized certain transactions relating to dealings in certain debt and equity.

• On June 2, OFAC issued General Licenses [25B](#), [36](#), [37](#), and [38](#). GL 25B authorizes certain telecommunications. GL 36 authorizes the winding down of transactions involving Public Joint Stock Company Severstal through August 30. GL 37 provides the same authorizations for Nord Gold PLC through June 30. GL 38 authorizes certain transactions related to pension payments to U.S. persons.

• On May 25, OFAC issued General License 13A, which authorizes certain administrative transactions.

### OLIGARCH JETS

On June 6, BIS [issued](#) an Administrative Charging Letter against Russian oligarch Roman Abramovich, alleging violations of the EAR involving the flights of two U.S. origin aircraft into Russia without the required licenses from BIS.

### NRC RUSSIA ORDER

On May 17, the Nuclear Regulatory Commission (NRC) issued an [order](#) immediately suspending the general license authority to export radioactive material, or deuterium for nuclear end use, to Russia. Exporters must now apply for a specific license.

### BIS AIRCRAFT LIST

On [May 20](#) and again on [May 27](#), BIS updated its list of private and commercial aircraft that have been flown into Russia in apparent violation of the Export Administration Regulations (EAR).

### STATE DEPT. DESIGNATIONS

On June 2, the Department of State [designated](#) five individuals considered Russian oligarchs or

proposed U.S.- Taiwan Initiative on 21<sup>st</sup> Century Trade. Comments are due by July 8. 87 Fed. Reg. [35591](#) (June 10, 2022).

### FDA DRUG ENTRIES

The Food and Drug Administration (FDA) has concluded a 90-day pilot to conduct drug entry admissibility reviews on a national basis with expanded staff. FDA will assess the pilot program to determine future review strategy. CSMS # [52132388](#) (June 10, 2022).

### ACE ACCOUNT MERGERS

On May 27, CBP announced that it was permanently transitioning to the procedures temporarily adopted during the COVID-19 pandemic for ACE account merge requests. CSMS #[52016204](#) (May 27, 2022).

### U.S. - E.U. TRADE COUNCIL

The U.S. and European Union (EU) [agreed](#) to more closely harmonize export licensing decisions and share information on screening at the U.S. and EU Trade & Technology Council meeting held in Paris in May.

### N. KOREAN IT WORKERS

OFAC, along with the State Department and the FBI, has published an [advisory](#) warning industry of clandestine activities by North Korean IT workers. OFAC and the FBI indicated that some North Korean workers are posing as nationals of other Asian countries and acting as IT consultants. Fees earned are being sent back to the North Korean government. In some instances, the workers are noting vulnerabilities in software to allow malicious software to be sent later.

### EPA FORM 3540-1

Effective June 18, the Environmental Protection Agency (EPA) requires use of a new version of the EPA Form 3540-1 Notice of Arrival of Pesticides and Devices (NOA). The form has been revised, but contains no new data elements. CSMS #[52174134](#) (June 14, 2022).

### HFC IMPORTS

CBP has published updated guidance on the importation of bulk hydrofluorocarbons (HFCs) under the American Innovation and Manufacturing (AIM) Act. CSMS # [51938400](#) (May 19, 2022).

### DOG WHEELCHAIRS

CBP has proposed the revocation of a ruling on the classification of dog wheelchairs. Under the proposed ruling, such products would be classified as orthopedic appliances in Heading 9021 instead of as other aluminum household articles in Heading 7615. 56 Cust. B. & Dec. [53](#) (May 11, 2022).

### MEXICO LABOR

• On May 18, USTR [requested](#) that Mexico review whether workers at a Panasonic plant in Reynosa were being denied the rights of free association and collective bargaining. This is the third request for a labor rights review made by the

alleges are contrary to Canada's USMCA commitments. The dispute centers on Canada's use of a tariff-rate quota that has not been fully allocated annually.

#### FIREARM EXPORTS

On June 1, BIS issued a Final Rule that requires Congressional notification before issuance of an export license for the export of certain semiautomatic firearms over a specific value to certain countries. The new requirement goes into effect on July 18. 87 Fed. Reg. [32983](#) (June 1, 2022).

#### CHINA OUTSOURCING

On June 8, BIS issued a 180-day temporary denial order (TDO) to Quicksilver Manufacturing Inc., Rapid Cut LLC, and U.S. Prototype Inc. The three companies are accused of outsourcing to China 3-D prototypes for satellites, rockets, and defense-related products without the required license. 87 Fed. Reg. [36104](#) (June 15, 2022).

#### BIS TDO

On May 20, BIS issued a Temporary Denial Order ("TDO") against a fifth Russian airline, Rossiya Airlines. The TDO terminates the right of Rossiya Airlines to participate in transactions subject to the Export Administration Regulations (EAR) for 180 days and is subject to renewal. 87 Fed. Reg. [31856](#) (May 25, 2022).

#### BROKER REGULATIONS

On June 17, CBP will host a webinar on the Notice of Proposed Rulemaking on CBP's broker regulations. CSMS #[52145069](#) (June 10, 2022).

#### TECH DATA

Joe Sery, the CEO of Tungsten Heavy Powder & Parts, [plead](#) guilty to exporting defense technology to India, China, and other countries. Mr. Sery obtained the technical data from U.S. contractors, then gave it to his foreign national brother who shared it with other entities outside the U.S. without the proper license.

USTR under the new USMCA labor enforcement mechanisms.

• On June 6, USTR [requested](#) that Mexico conduct a similar investigation into labor practices at Teksid Hierro de Mexico in Frontera.

#### IRAN 747s

BIS has announced the temporary denial of export privileges for individuals allegedly involved in the prohibited re-exportation of three U.S.-origin Boeing 747s to Iran. 87 Fed. Reg. [30173](#) (May 18, 2022).

#### STEEL PIPE FCPA

On June 2, the Securities and Exchange Commission (SEC) [announced](#) that Tenaris, a Luxembourg-based manufacturer and supplier of steel pipe products, would pay \$78 million to resolve charges that it was involved in a bribery scheme with the Brazil-owned state entity Petrobras in violation of the Foreign Corrupt Practices Act (FCPA).

### FTZ STATISTICS

#### FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 6/15/2022

	Approved
Zones	297
Subzones*	875
	Pending
Zones	2
Subzones	10
Misc.	31

\*From Fed. Reg. Notices

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