



## NEW CHINA EXPORT CONTROLS

On October 7, the Bureau of Industry and Security (BIS) issued a lengthy [Interim Final Rule](#) that adds export controls on advanced semiconductors (integrated circuits), supercomputers, production equipment, components, and related software and technology destined to China. The rule imposes a mix of new Export Control Classification Numbers (ECCNs), end use controls, and three new Foreign Direct Product (FDP) rules covering foreign products made with U.S. technology for certain end uses in China. The rule also adds 28 Chinese entities to the Entity List. Staged implementation began October 7. Comments are due by December 13. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions. 87 [Fed. Reg. 62186](#) (Oct. 13, 2022).

## UNVERIFIED LIST

BIS issued a Final Rule that added 31 entities, including Chinese semiconductor manufacturer Yangtze Memory Technologies, to the Unverified List. The Final Rule also includes guidance on criteria and activities for adding entities to the Entity List. 87 [Fed. Reg. 61971](#) (Oct. 13, 2022).

## ANTI-BOYCOTT PENALTIES

BIS has issued a Final Rule modifying its policy on enforcing anti-boycott rules. In addition to enhanced penalties, the policy includes an increased focus on foreign subsidiaries of U.S. companies. Contact [Bryan Brown](#) with questions. 87 [Fed. Reg. 60890](#) (Oct. 7, 2022).

## RUSSIAN SANCTIONS

On September 30, the Office of Foreign Assets Control (OFAC) [designated](#) over 300 parties in response to Russia's "sham referenda" and attempt to annex Ukrainian territory and issued [guidance](#) that foreign parties outside of Russia could be designated for providing economic or political assistance in these efforts. BIS concurrently [added](#) 57 parties to the Entity List, 50 of which will also be subject to the Russia-Belarus Military End User Foreign Direct Product (FDP) Rule.

## FDA REFUSALS & CBPF 4647

The Food and Drug Administration (FDA) and CBP have announced that, effective October 1, CBPF 4647

## 2022 FALL TRAINING SEMINARS

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

- 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](http://www.millerco.com) to register or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

## FORCED LABOR REPORT

The Department of Labor has issued its [2022 List](#) of Goods Produced by Child Labor or Forced Labor (TVPRAList). The report has 32 additions from the 2021 report and includes products and countries not already covered by Withhold Release Orders (WROs). The report also highlights concerns with clean energy supply chains, forced labor in Chinese polysilicon production, and child labor in Congo cobalt mining. Clients should review for potential forced labor targeting and risk assessment.

The Department of Labor is requesting comments and information for use in three reports it issues on child and forced labor in foreign countries. Comments are due by December 16. 84 [Fed. Reg. 60200](#) (Oct. 4, 2022).

## INFANT FORMULA IMPORTS

The Food & Drug Administration (FDA) has extended its policy of "enforcement discretion" until January 6 for the importation of infant formula that does not meet all regulatory requirements. In addition, FDA has published [guidance](#) to help manufacturers determine whether their products meet the requirements.

On October 10, President Biden signed the "Bulk Infant Formula to Retail Shelves Act" into law. The Act temporarily eliminates duties through December 31, 2022, on base powder to be used in domestic production of baby formula. H.R. [8982](#) (Oct. 10, 2022); CSMS [#53599807](#) (Oct. 12, 2022).

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

## CRYPTO SCREENING

Bittrex, a company based in suburban Seattle that provides virtual online currency exchanges

## CHINA 301 REVIEW

On October 12, the Office of the U.S. Trade Representative (USTR) [announced](#) the next steps in its four-year review of the Section 301 Lists 1 and 2 additional duties on Chinese products. USTR is requesting public comments by January 17, 2023 on the effectiveness of the additional duties in eliminating unfair Chinese trade practices and their impact on the U.S. economy. USTR is to post specific questions on November 1 and open its electronic portal for submitting answers and comments on November 15. 87 [Fed. Reg. 62914](#) (Oct. 17, 2022).

## BROKER REGS REVISED

On October 17, U.S. Customs and Border Protection (CBP) released a [Final Rule](#) on the modernization of customs broker regulations in 19 C.F.R. Part 111. The substantial changes include moving all brokers to single national permits, revising the broker responsible supervision and control framework, ensuring customs business is conducted within the U.S., and requiring direct broker communications with importers.

## USER FEES INCREASE - MPF

Clients are reminded that CBP announced in August that 23 separate user-fees will increase by 18.62% for fiscal year 2023. These increases went into effect October 1. The Customs Merchandise Processing Fee (MPF) maximum increased from \$538.40 to \$575.35, an increase of \$46.95. 87 [Fed. Reg. 46973](#) (Aug. 1, 2022).

## FMC CHARGES COMPLAINT

The Federal Maritime Commission (FMC) has posted a notice that furniture maker Philip Reinisch Company, LLC filed a [Complaint](#) against NVOCC Flexport Int'l LLC alleging Shipping Act invoicing violations for detention and demurrage charges. 87 [Fed. Reg. 60401](#) (Oct. 5, 2022).

FMC is requesting public comments by December 13 on a Proposed Rule that requires common carriers and marine terminal operators to include specific information on demurrage and detention invoices and outlines certain billing practices. 87 [Fed. Reg. 62341](#) (Oct. 14, 2022).

## DOT CONTAINER INQUIRY

The Department of Transportation

Redelivery notices will be sent by CBP via the ACE Portal (or mailed to the importer if it has not opted to receive forms electronically), with a copy also emailed to the FDA and the customs broker if the importer has not designated brokers to receive notices via the ACE Portal. The FDA will first issue a post-release refusal notice, which CBP will follow with the CBPF 4647 (i.e., no more joint FDA/CBP notices). Clients are urged to review their ACE Portal preferences for electronic forms. Contact [Sean Murray](#) with questions. CSMS #53438144 (Sept. 28, 2022).

#### FIRST SALE RULE

CBP has ruled that there was no bona fide "first sale" between a U.S. importer and a related middleman who placed orders with and paid unrelated foreign manufacturers for orders it received from the U.S. importer because, despite delivery to the middleman being FOB, the U.S. importer actually bore the risk of loss by paying for freight and insurance costs from the foreign port and because title to the merchandise transferred directly from the foreign manufacturers to the U.S. importer. HQ [H316892](#) (July 20, 2022).

#### THERMOTRON BIS SETTLEMENT

BIS has entered into a [settlement agreement](#) with Thermotron Industries of Holland, Michigan, whereby the company admitted to exporting an environmental test chamber to South Korea without the required license. As part of the settlement agreement, Thermatron is subject to a two-year probationary period. If it commits an export controls violation during this period or fails to satisfy other terms of the settlement, Thermatron will have its export privileges denied for two years.

#### USMCA AUTO COMMENTS

In its investigation into the economic impact and operation of the USMCA Automotive Rules of Origin, the U.S. International Trade Commission (ITC) has extended the deadline to submit written submissions to November 25. The public hearing is on November 3. 87 Fed. Reg. [60706](#) (Oct. 6, 2022).

#### FABRIC OR PARTS?

The U.S. Court of International Trade (CIT) has ruled that synthetic fabric net wraps used to bale hay are properly classified as warp knit fabrics in HTSUS subheading 6005.39.00 rather than as parts of harvesting or agricultural machinery in HTS Headings 8433 or 8436. [RKW Klerks v. U.S.](#), CIT Slip Op. [22-115](#) (Oct. 4, 2022).

#### DUTY & QUOTA FREE TEXTILES

The Committee for the Implementation of Textile Agreements (CITA) has published the 12-month cap on duty and quota-free imports of certain apparel and textiles imported from designated sub-Saharan African countries. 87 Fed. Reg. [57681](#) (Sept. 21, 2022).

has [agreed](#) to limit to \$24 million, a record fine, to the Office of Foreign Assets Control (OFAC) for sanctions violations. Bittrex had reason to know, but failed to screen and prevent persons from Cuba, Syria, Sudan, and Crimea from using its platform without the required licenses.

#### DOD LIST

On October 5, the Department of Defense (DoD) [released](#) the [names](#) of 13 Chinese companies with ties to the Chinese military. At least two of the companies are on the BIS Entity List, but the other 11 companies are not currently on any other restricted parties list. These companies should be treated as red flags.

#### STATE DEPT SANCTIONS

The U.S. State Department has imposed sanctions on three entities (from China, India, and Turkey) and one Chinese individual for engaging in proliferation activities involving weapons of mass destruction or missile systems. The Indian entity, Synnat Pharma, is a pharmaceutical chemicals manufacturer. 87 Fed. Reg. [62484](#) (Oct. 14, 2022).

#### CBP STAFFING

CBP has a shortfall of about 1,800 officers and expects staffing needs to increase. According to Pete Flores, Executive Assistant Commissioner of CBP's Office of Field Operations, CBP is trying to make up for the shortfall with efficiency improvements.

#### CHINA ORIGIN

CBP has proposed the revocation of rulings that the origin of certain air purifiers assembled in Vietnam from Chinese and Vietnamese components, including a Chinese motor, is China. Comments are due by November 11. 56 Cust. B. & Dec. [70](#) (Oct. 12, 2022).

#### U.S. TRADE YEAR IN REVIEW

The U.S. International Trade Commission has issued its 2021 Year in Trade report. The report summarizes the global trade environment, U.S. trade laws, and U.S. free trade agreements. 2021 was the first year since the World Trade Organization (WTO) was established in 1995 that the U.S. was not a complaining party or a named respondent in a new WTO dispute filing. USITC Pub. No. [5349](#) (Aug. 2022).

#### KD KIT HTS & DUTIES

The Thailand Supreme Court has [ruled](#) that Toyota Motor Thailand owes approximately \$270 million in duties and taxes for importing complete knock-down (KD) kits for assembling Prius models that were ineligible for the reduced duty rate for auto parts under the Japan-Thailand free trade agreement. This is a reminder that kit importers need to carefully analyze imported contents versus Customs requirements. Contact [Brian Murphy](#) with questions.

(DOT) has requested comments on determining the best locations for storing and transferring cargo containers and other freight. The purpose of the request is to help relieve congestion at U.S. ports. Comments are due by October 26. 87 Fed. Reg. [58432](#) (Sept. 26, 2022).

#### FTZ BOARD WEBSITE

Clients are encouraged to review the FTZ Board OFIS website for the detailed listing of their FTZ project. If errors are identified, the Grantee should be contacted to correct the errors. It is important that all FTZ firm information on the OFIS website be accurate.

#### SUBZONE SITES

FTZ clients intending to increase their number of subzone sites should contact the firm early in the process. CBP is extremely short-staffed, and confirmation that CBP will be able to provide oversight should be secured prior to finalizing related real estate transactions. Contact [Marshall Miller](#) with questions.

#### AES POST-DEPARTURE PILOT

Census has cancelled the Advanced Export Information (AEI) pilot program initiated in 2014. The pilot allowed participants to submit a limited set of Electronic Export Information (EEI) in accordance with regular requirements and provide the full EEI within five days of export. Census cancelled the pilot program due to a lack of adequate participation. Contact [Sean Murray](#) with questions. 87 Fed. Reg. [62303](#) (Oct. 14, 2022).

#### IC EXPORT VIOLATION

A Florida man has [pled](#) guilty to conspiring to export programmable space-grade integrated circuits to China and Russia in violation of the International Emergency Economic Powers Act, which is punishable by up to five years in federal prison.

#### QUARTERLY INTEREST RATES

CBP has announced that the fourth quarter 2022 interest rates used in calculating interest on overdue accounts and refunds of Customs duties have increased by 1% from the previous quarter. 87 Fed. Reg. [57502](#) (Sept. 20, 2022).

#### GSP AND PACIFIC ISLANDS

The U.S. Trade Representative (USTR) has [indicated](#) it supports Congress expanding the Generalized System of Preferences (GSP) by designating the Pacific Islands Forum states as a developing regional association for GSP purposes.

FTZ STATISTICS  
FOREIGN-TRADE ZONES BOARD  
ACTIVITY AS OF 10/15/2022

	Approved
Zones	298
Subzones*	876

	Pending
Zones	2
Subzones	10
Misc.	33

\*From Fed. Reg. Notices

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