



## RUSSIA EXPORT CHARGES

The Department of Justice (DOJ) has [charged](#) about a dozen individuals and several companies with participating in schemes to avoid U.S. sanctions and export dual-use technologies to Russia. Two defendants, who were arrested on October 17 in Germany and Italy, allegedly obtained military technology from U.S. companies, brokered and smuggled Venezuelan oil, and laundered millions of dollars for Russian industrialists and sanctioned entities. Four defendants, who were arrested in the Baltic states, and two European companies attempted to smuggle a jig grinder to Russia without the required license.

## RUSSIA SANCTIONS

On November 14, the Office of Foreign Assets Control (OFAC) and the Department of State [announced](#) they were sanctioning a transnational procurement network centered around PKK Milandr, a Russian microelectronics company that supports the Russian military-industrial complex, as well as two Russian elites and related entities and persons. In total, the announced sanctions cover 28 entities, 14 individuals, and 8 aircraft, and include Swiss entities and persons and Sharp Edge Engineering Inc., a Taiwan front company for purchasing electronic components.

## RUSSIA NME STATUS

On November 10, the Department of Commerce [announced](#) that it will no longer treat Russia as a market economy in antidumping (AD) proceedings. Commerce says that extensive government involvement in the Russian economy has distorted prices and costs. As a result, future AD cases involving Russian imports will apply an alternative non-market economy (NME) methodology for calculating AD duties.

## CUSTOMS BROKERS

• CBP has issued a Final Rule eliminating customs broker districts and corresponding permit fees and transitioning all customs brokers to a national permit system, which allows permit holders to conduct customs business throughout the customs

## CHINA SECTION 301 COMMENTS

The U.S. Trade Representative (USTR) has posted a detailed list of [questions](#) for public comments for its review of the China Section 301 duty actions. The questions are divided into three sections: (1) the effectiveness of the actions, (2) sector/industry-specific comments, and (3) comments on tariff headings. USTR is specifically requesting comments on adding or removing particular HTS provisions. Public comments may be filed until January 17, 2023 using the USTR [website](#). Clients paying China Section 301 duties or relying on 301 product exclusions should consider filing comments to advocate for China Section 301 duty relief. Contact [Marshall Miller](#), [Brian Murphy](#), or [Sean Murray](#) with questions or for assistance in preparing and filing comments. 87 [Fed. Reg. 62914](#) (Oct. 17, 2022).

## FORCED LABOR

• CBP published a [Trade User Information Notice](#) on November 2 informing that it will deploy an enhancement to ACE (on a date to be determined) that will require the Chinese postal code in ACE for Chinese origin goods based on the Manufacturer Identification (MID) Code. Users will receive a warning message when a Uyghur region postal code is provided and an error message if a valid Chinese postal code is not provided. A warning message will be notice to the importer that the rebuttable presumption under the UFLPA applies. Contact [Sean Murray](#) with questions.

• CBP has [reported](#) that in September it targeted 491 entries valued at more than \$158.6 million for suspected use of forced labor in the production of imported goods, including goods subject to the Uyghur Forced Labor Prevention Act (UFLPA) and Withhold Release Orders (WROs). These figures are down compared to CBP's [reported](#) figures for the previous month of 838 entries valued at more than \$266.5 million.

• Senator Marco Rubio and Representative Chris Smith have [voiced objections](#) to CBP Commercial Customs Operations

## CBP COMMISSIONER RESIGNS

U.S. Customs and Border Protection (CBP) Commissioner Christopher Magnus [resigned](#) on November 12, 2022. He served as Commissioner for only 11 months, being sworn in on December 13, 2021. News reports indicate that Commissioner Magnus had lost the support of Department of Homeland Security (DHS) Secretary Alejandro Mayorkas.

## DE MINIMIS & FDA

CBP has reminded the trade on admissibility requirements for *de minimis* Section 321 shipments of Food and Drug Administration (FDA)-regulated products. Such 321 shipments still require satisfying FDA regulatory requirements, including FDA Product Codes, FDA Prior Notice for food, correct [bill of lading information](#), and other FDA data elements. CSMS [#53697179](#) (Oct. 20, 2022). CSMS [#17-000388](#), which allows *de minimis* entries without FDA notification, remains in effect for the following 5 product categories: cosmetics, dinnerware, radiation-emitting non-medical devices, biologic samples for lab testing, and food (but Prior Notice requirements apply). Contact [Sean Murray](#) with questions.

## DE MINIMIS STATS

CBP has released [statistics](#) on Section 321 *de minimis* shipments for the years 2018 through 2021. The volume of shipments has increased yearly while the value of shipments increased through 2021 but fell below 2019 shipment values in 2021. Import volume from China was 1.49 billion shipments over the four-year period, accounting for 64% of all Section 321 imports, almost twice as many as all other countries combined.

## PART 102 RULES OF ORIGIN

CBP has issued a long Final Rule, effective November 15, that makes corrections to the rules of origin in Part 102 of the Customs Regulations to align them with HTSUS changes. These rules of origin apply to marking under the U.S.-Mexico-Canada Agreement (USMCA), determining whether goods are new or different articles under the U.S.-

territory of the U.S. 87 Fed. Reg. [63262](#) (Oct. 18, 2022).  
• CBP has also issued a Final Rule updating the supervision and control framework for customs brokers, increased customs broker license application fees, and deploying a new eCBP online portal for processing broker submissions and electronic payments. 87 Fed. Reg. [63267](#) (Oct. 18, 2022).

### CUSTOMS BUSINESS

CBP has issued a challenging new ruling on “customs business” and HTSUS classification provided by suppliers. CBP has ruled that a company providing customers with 8- or 10-digit HTSUS classifications for specific products is conducting “customs business,” requiring a customs brokers license even if a disclaimer is provided advising them to consult a customs broker. Further, parties that rely on such classifications would not satisfy the reasonable care standard required when importing into the U.S. CBP noted that the provision of 6-digit subheadings is not customs business and that under certain circumstances, a database of subheadings not identifying specific products provided for reference purposes may not be customs business. Contact [Brian Murphy](#) with questions. [HQ H290535](#) (Sept. 29, 2022).

### USMCA BINATIONAL PANEL

CBP is looking for individuals to serve on binational panels in support of the U.S.-Mexico-Canada Agreement (USMCA) to review antidumping and countervailing duty proceedings. Applications are due by November 30. 87 Fed. Reg. [64835](#) (Oct. 26, 2022).

### AGRICULTURE SECTION 301

On October 28 USTR announced that, in response to a petition received in September, it would not initiate a Section 301 investigation into certain Mexican agricultural practices but would coordinate with USDA to establish a private-sector advisory panel to promote the competitiveness of growers in the southeastern U.S. 87 Fed. Reg. [65280](#) (Oct. 28, 2022).

### SPIRULINA BLUE

CBP has ruled that Spirulina Blue is classified in HTSUS subheading 3824.99, a residual tariff provision for other chemical products of the chemical or allied industries, instead of as a microorganism or animal product. Spirulina Blue is a coloring product sold to various food manufacturers. It is made from spirulina algae, but goes through an extraction process in manufacturing that CBP says alters its “character as a microorganism.” [HQ H324168](#) (Aug. 26, 2022).

Advisory Committee (COAC) Free Trade Agreements, and determining the origin of most textile and apparel products. 87 Fed. Reg. [68339](#) (Nov. 15, 2022).

### MICROELECTRONICS SURVEY

The Bureau of Industry and Security (BIS) Office of Technology Evaluation (OTE) has initiated a comprehensive assessment of the U.S. microelectronics industrial base. Companies contacted by OTE (manufacturers, designers, and distributors) are required by law to complete the survey within 60 days, which is estimated to require 16 hours to complete.

### MAHAN AIRWAYS

BIS has renewed for 180 days the Temporary Denial Order covering the export privileges of Mahan Airways of Iran and 11 other entities and individuals. 87 Fed. Reg. [68123](#) (Nov. 14, 2022).

### ACE OCEAN BILL CHANGES

CBP has initiated a number of technical changes in ACE that allow a range of actions involving release and in-bond trade at the House Bill of Lading level, including FTZ CBP authorization. Contact [Linda King](#) for more information. CSMS [#53864918](#) (Nov. 3, 2022).

### P.R. BANK VIOLATION

On October 18, the Office of Foreign Assets Control (OFAC) [issued](#) a “Finding of Violation” against Nodus International Bank, Inc. of Puerto Rico. OFAC accused Nodus of failing to maintain full and accurate records, inaccurate reporting of blocked parties, and three unreported transactions with blocked parties in Venezuela.

### RE-EXPORT CHARGING LETTER

BIS has issued an [Administrative Charging Letter](#) against WEBS Electronics Trading Company of the UAE and its owner. The Charging Letter alleges multiple unlicensed re-exports of U.S. telecom equipment from the UAE to Syria and Iran, as well as misleading statements to U.S. government officials.

### NICARAGUA SANCTIONS

On October 24, President Biden issued Executive Order (E.O.) [14088](#), amending E.O. [13851](#) to revise the scope of property interests subject to blocking sanctions, and to authorize the Secretary of the Treasury to prohibit the importation of Nicaraguan origin products, the export or supply of products from the U.S. or by U.S. persons to Nicaragua, new investment in Nicaragua, and U.S. person facilitation of transactions by foreign persons that would be prohibited if performed by U.S. persons. 87 Fed. Reg. [64685](#) (Oct. 26, 2022).

Morocco and U.S.-Bahrain Free Trade Agreements, and determining the origin of most textile and apparel products. 87 Fed. Reg. [68339](#) (Nov. 15, 2022).

### EI CONFIDENTIALTY

On October 27, Census issued a [reminder](#) that Electronic Export Information (“EEI”) submitted in the Automated Export System (AES) is confidential information that may not be provided to foreign governments for any purpose. The Internal Transaction Number (“ITN”) is not confidential and may be provided in place of the confidential EEI. Citations used in place of the ITN where an EEI filing was not required (e.g., AES downtime filing, exemptions, and exclusions) may also be provided in place of confidential EEI. Contact [Sean Murray](#) or [Jerry Greenwell](#) with questions.

### VET DEVICES

The FDA has published a Final Rule, effective November 17, that requires submission of four data elements for electronic filings of entries containing a veterinary device: (1) FDA Country of Production; (2) FDA Product Code; (3) Intended Use Code; and (4) Importer of Record telephone number and email address. 87 Fed. Reg. [62977](#) (Oct. 18, 2022).

### TECH DATA TRANSFER

On November 9, the Department of Justice (DOJ) [announced](#) that it had arrested three individuals and charged them and Quadrant Magnetics LLC for conspiring to send defense related technical data to China and to provide the Department of Defense with rare earth magnets from China for use in U.S. military aviation applications.

### LAB EQUIPMENT EXPORTS

On October 17, [InterTech Trading Corporation](#), a New-Hampshire-based lab equipment distributor, was fined \$140,000 and sentenced in federal court to two years of corporate probation and monitoring for falsely describing lab equipment exports to Russia, Ukraine, and other countries, as well as undervaluing the shipments, which allowed them to evade the Census Automated Export System (AES) filing requirement.

### FTZ STATISTICS

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#### FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 11/15/2022

	Approved
Zones	298
Subzones*	877
	Pending
Zones	2
Subzones	9
Misc.	33

\*From Fed. Reg. Notices

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