



## U.S.-TAIWAN TRADE DEAL

On August 7, President Joe Biden [signed](#) into law the U.S.-Taiwan Initiative on 21st-Century Trade First Agreement Implementation Act. The Act is not a free trade agreement, but streamlines Customs procedures, includes anti-corruption provisions, and sets requirements for future trade agreements.

## CHINESE INVESTMENTS

On August 9, President Biden issued Executive Order 14105, which directs the Treasury Secretary to issue regulations that require U.S. persons to provide notification of certain transactions and prohibit U.S. persons from engaging in other transactions involving covered foreign persons. This new outbound investment screening program targets U.S. investments in Chinese artificial intelligence, quantum information technologies, semi-conductors, and microelectronics. 88 [Fed. Reg. 54867](#) (Aug. 11, 2023).

## CBP USER FEE INCREASES

Certain U.S. Customs and Border Protection (CBP) user fees will increase effective October 1. The maximum Merchandise Processing Fee (MPF) will increase from \$575.35 to \$614.35. CSMS # [57131638](#) (July 28, 2023). 88 [Fed. Reg. 48900](#) (July 28, 2023).

## CHINA NUCLEAR CONTROLS

• The Bureau of Industry and Security (BIS) has issued a Final Rule that amends the Export Administration Regulations (EAR) to add license requirements for items controlled for Nuclear Non-proliferation (NP) Column 2 reasons when exported to China and Macao. Covered items include deuterium ("heavy water") and graphite for non-nuclear end uses and generators and other equipment for nuclear plants. 88 [Fed. Reg. 54875](#) (Aug. 14, 2023).

• The Nuclear Regulatory Commission (NRC) has issued an Order suspending general license authority to export special nuclear material, source material, and deuterium for nuclear end use to China. Exporters must now request a specific license. 88 [Fed. Reg. 55081](#) (Aug. 14, 2023).

## USML CAT XXI

Census has issued a Final Rule that requires, when exporting a Directorate of Defense Trade

## FALL 2023 FIRM SEMINARS

Fall training seminars will be conducted by webinar.

- FTZ 101 – October 10-12
- FTZ 201 – October 17-19
- I/E 101 – November 7-9
- I/E 201 – November 14-16

More detailed information is posted to our website at [www.millerco.com](http://www.millerco.com). To register, visit our website or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

## NAFTZ ANNIVERSARY

• Clients are encouraged to attend the National Association of Foreign-Trade Zones (NAFTZ) Annual Conference in Miami on September 10-13. The firm is hosting a client reception on Monday night, September 11. Please register in advance by emailing [Kelley Randol](#) with your name, company/organization, and the names of any spouse/guests. RSVPs must be received no later than September 7.

• This NAFTZ Annual Conference celebrates the 50th anniversary since the NAFTZ was founded by Marshall Miller and others in 1973.

• The firm has produced a [chronology](#) of foreign-trade zone (FTZ) milestones.

## ACE PORTAL FUNCTIONALITY

CBP has migrated additional account details to the ACE Secure Data Portal, including data fields for FTZ employees, FIRMS code, and Zone ID number. FTZ clients are encouraged to review their ACE Portal account details for accuracy. Please contact [Linda King](#) or [Brenda Zeller](#) with questions. CSMS # [57200623](#) (Aug. 3, 2023).

## ACE TECH FORUM

CBP is hosting an in-person and virtual information-sharing session on September 14 to exchange technical ideas with ACE software developers and self-programmers to help improve ACE short-term and inform future CBP technical initiatives. Clients with FTZ ACE issues are especially encouraged to [register](#) by August 25. CSMS # [57134044](#) (July 28, 2023).

## FDA WEF IMPORTS

The firm submitted [comments](#) to the Food and Drug Administration (FDA) on the FDA Foreign-Trade Zone

## SEC UFLPA DISCLOSURES

• China-based companies have been placed on notice by the Securities and Exchange Commission (SEC) Division of Corporation Finance to enhance their compliance with disclosure obligations under federal securities law. On July 17, the Division [released](#) a sample letter that the companies could receive if initial disclosures are inadequate.

• The sample letter includes specific disclosures regarding Chinese Communist Party (CCP) ownership, government control, and any operations at odds with the Uyghur Forced Labor Prevention Act (UFLPA).

## FORCED LABOR SHIPMENTS

In June, CBP [identified](#) 405 shipments valued at approximately \$240 million suspected of relating to forced labor, many of which were suspected of violating the UFLPA. This is up from \$197 million of goods in May.

## NEW FORCED LABOR ENTITIES

• Two new entities, Camel Group Co., Ltd. and Chenguang Biotech Group Co. Ltd., were added to the UFLPA Entity List on August 2. Camel Group was found to be cooperating with the government of the Xinjiang Uyghur Autonomous region on forced labor matters, while Chenguang Biotech and its subsidiary were found to be sourcing materials from the region.

• Xinjiang Zhongtai Chemical Co., Ltd. and Ninestar Corporation, as well as eight of its Zhuhai-based subsidiaries, were added to the UFLPA Entity List in June. 88 [Fed. Reg. 50902](#) (Aug. 2, 2023).

## CBP OUTBOUND INSPECTIONS

The Department of Homeland Security (DHS) Office of Inspector General (OIG) has issued a [report](#) that CBP is not adequately inspecting export shipments, especially at land borders. In response, CBP has created a workgroup to address the findings and is establishing an office dedicated to outbound oversight.

## RUSSIA & WTO

The U.S. Trade Representative (USTR) is soliciting comments and has scheduled an October 12 public hearing on Russia's implementation of its World Trade Organization (WTO) obligations. Comments are due by September 20. 88 [Fed. Reg.](#)

Controls (DDTC) defense item in U.S. Munitions List (USML) Category XXI, declaring the Category XXI Determination Number provided by DDTC in the Automated Export System (AES). The new rule takes effect on November 8. 88 [Fed. Reg. 54234](#) (Aug. 10, 2023).

### 232 PRODUCT EXCLUSIONS

The Government Accountability Office (GAO) has issued a [report](#) on Section 232 product exclusions, finding that importers did not utilize the majority of approved product exclusions, at least in part because requests overclaimed quantities. GAO also identified \$32 million in unpaid Section 232 duties because importers claimed Section 232 exclusions above approved quantities and recommended that CBP recover the duties, including by 19 U.S.C. § 1592 duty demands and penalties.

### BOYCOTTS & TRADE SHOWS

BIS has [fined](#) two defense contractors for violations of the antiboycott regulations. For shipment of products to a trade show in Bahrain, both companies certified to freight forwarders that their goods were not of Israeli origin and failed to report the boycott requests. Contact [Bryan Brown](#) or [Sean Murray](#) with questions.

### BORDER STAFFING ISSUES

A DHS OIG 2023 [report](#) has identified poor health and morale among southern border law enforcement personnel from CBP and Immigration and Customs Enforcement (ICE). OIG found the cause to be workload and recommended hiring independent contractors, conducting a review of completed priorities, and creating more direct lines of communication to frontline staff.

### BACKHOE HTS

The U.S. Court of International Trade (CIT) has ruled that Bobcat excavators are “backhoes” for Harmonized Tariff Schedule (HTS) classification purposes, applying the common meaning of the term in classifying counterweights as other parts of backhoes in HTSUS subheading 8431.49.9044. [Norca Engineered Products, LLC v. U.S., CIT Slip Op. 23-108](#) (July 21, 2023).

### EXPORT PENALTIES IMPOSED

The State Department has [imposed](#) penalties on four Chinese and Turkish companies and one individual under the Iran, North Korea, and Syria Nonproliferation Act for illegal transfers of controlled items that contribute to weapons proliferation or missile production. 88 [Fed. Reg. 53574](#) (Aug. 8, 2023).

Weekly Entry Filing (WEF) program. Contact [Sean Murray](#) or [Linda King](#) with questions on the FDA WEF program or for assistance with WEF applications.

### SEAGATE CLASS ACTION

The Public Employees’ Retirement System of Mississippi has filed a class action [complaint](#) against Seagate Technology, alleging that it concealed adverse information related to its sales of hard disk drives (HDDs) to Huawei Technologies and Huawei affiliates. Earlier this year, Seagate settled a civil action with BIS that resulted in a \$300 million civil penalty for 429 alleged violations of the EAR related to these sales.

### MEDICAL END USE LICENSES

BIS has issued [guidance](#) and recommendations for export license applications for medical end uses in Russia and Belarus. Among the recommendations are limiting the number of consignees per license application, providing end use and user statements and certifications, and limiting the validity and quantities to one year.

### DEUTSCH BANK FINED

On July 19, the Federal Reserve Board [fined](#) Deutsch Bank \$186 million for violating two consent orders related to sanctions compliance and anti-money laundering controls by failing to upgrade its sanctions and anti-money laundering programs.

### MMIC EXPORTS CASE

The U.S. Court of Appeals for the Ninth Circuit has [overruled](#) a federal district court’s acquittal on one count and affirmed the jury’s guilty verdicts on all counts related to Mr. Yi-Chi Shih’s involvement in the export of monolithic microwave integrated circuits (MMICs) and related technology to a Chinese company conducting research for a Chinese state-owned enterprise that develops military weapons. Among several arguments, Mr. Shih challenged the interpretation of ECCN 3A001 and argued that the subject exports were not covered by the EAR as publicly available technology arising from fundamental research. [U.S. v. Yi-Chi Shih](#), 9th Cir. Slip Op. [20-50144](#) (July 18, 2023).

### E-COMMERCE ORIGIN

The Country of Origin Labeling Online Act ([S. 1421](#)) introduced by Sen. Tammy Baldwin (D-WI) was approved by the Senate Commerce Committee on July 27. The bill would require online sellers to disclose the country of origin of the products.

### CUSTOMS BROKER EXAM

[Registration](#) for the October 25 CBP Broker License Exam closes on September 12.

[53576](#) (Aug. 8, 2023).

### U.S. WTO COMPLIANCE

Presenting an interesting, opposing perspective on U.S. trade policy, the Chinese Ministry of Commerce has released a [report](#) critical of U.S. compliance with its WTO commitments.

### FDA FOOD PRIOR NOTICE

The FDA is accepting comments until September 5 on its collection of information for the Prior Notice of imported food filing requirement. Clients with Prior Notice filing issues and concerns are encouraged to submit comments. Contact [Sean Murray](#) if you have questions or want assistance with comments. 88 [Fed. Reg. 51326](#) (Aug. 3, 2023).

### TSA CARGO PROGRAM

The Transportation Security Administration (TSA) has issued a Notice suggesting shippers consider joining the Certified Cargo Screening Program (CCSP). To join the program, shippers need to register with TSA and meet cargo screening standards. 88 [Fed. Reg. 53505](#) (Aug. 8, 2023).

### RUSSIA SANCTIONS

On August 11, the Office of Foreign Assets Control (OFAC) [announced](#) that it was [adding](#) four Russian individuals and a Russian business association to its list of Specially Designated Nationals (SDNs). The business association is the Russian Association of Employers the Russian Union of Industrialists and Entrepreneurs (RSPP), a Russian technology industry organization. OFAC also issued Frequently Asked Question (FAQ) [1131](#).

### RUSSIA SDNS

On July 20, OFAC [designated](#) many new SDNs, including Russian industries supporting the defense sector, Russian banks, Russian metals and mining companies, Russian importers of dual-use items, Kyrgyz Republic-based entities identified as trans-shippers of dual-use technology, and sanctions evasion facilitators.

### MALI SANCTIONS

Effective August 7, OFAC has adopted a Final Rule replacing the pre-existing Mali Sanctions Regulations with more comprehensive regulations. 88 [Fed. Reg. 52026](#) (Aug. 7, 2023).

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### FTZ STATISTICS

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#### FOREIGN-TRADE ZONES BOARD ACTIVITY AS OF 8/15/2023

|           |          |
|-----------|----------|
|           | Approved |
| Zones     | 301      |
| Subzones* | 883      |
|           | Pending  |
| Zones     | 1        |
| Subzones  | 8        |
| Misc.     | 33       |

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

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