



NAFTZ CONFERENCE

U.S. Customs and Border Protection (CBP) and the Foreign-Trade Zones Board (FTZB) made several important announcements at the National Association of Foreign-Trade Zones (NAFTZ) annual conference in Miami on September 11-13:

• **CBP Regulations.** CBP will soon announce a working group to update the CBP Foreign-Trade Zone (FTZ) regulations in 19 C.F.R. Part 146.

• **Forced Labor.** CBP has determined that FTZs cannot be used to store material under CBP Uyghur Forced Labor Prevention Act (UFLPA) detention.

• **Public Utility.** The FTZ Board Executive Secretary reminded that FTZ Act “public utility” standards must be adhered to.

• **FTZ Grantee Fees.** The FTZ Board Executive Secretary made it clear that all fees charged by Grantees must be based on a “cost recovery” standard.

• **CBP Staffing.** CBP indicated several times that CBP staffing levels are significantly strained at many ports. While the Reimbursable Services Program (RSP) has recently been identified as a potential solution, it only covers overtime and does not fund additional CBP officers.

• **User Fee Facilities.** CBP described User Fee Facilities as an option to support FTZ projects where there is no Customs Port of Entry.

• **Fentanyl.** CBP’s highest priority is interdicting fentanyl and precursor chemical imports.

• **Section 321 Imports.** Expect a significant regulatory clampdown on Section 321 imports. There are a wide range of legislative efforts in Congress that would impact Section 321 imports.

• **FTZ Weekly Estimate 3461s.** CBP emphasized that FTZ Weekly Estimate 3461 Cargo Releases require all entry line-item combinations (HTSUS, MID, and origin) for goods entered from FTZs. Contact [Marshall Miller](#) or [Linda King](#) with questions.

FTZ BOARD ANNUAL REPORT

The FTZB has [published](#) its annual report to Congress, providing FTZ statistics for 2022. The statistics indicate an increase in all categories except the number of FTZs, which remained at 197. Significantly, merchandise received into FTZs increased over 20% to surpass \$1

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. To register, visit our website or contact [Kelley Randol](#). Webinars are offered to Miller & Company clients only.

MORE RUSSIAN SANCTIONS

• On September 14, the Office of Foreign Assets Control (OFAC) [added](#) more than 150 individuals and entities to the Specially Designated Nationals (SDN) List for their involvement in supplying Russia with controlled goods or otherwise aiding the government. Sanctioned entities include Russian metal companies, vehicle manufacturers, and financial institutions.

• The State Department has [designated](#) 37 entities in the Russian energy sector, 7 entities in the minerals and mining sector, 11 entities that provide weapons repair and maintenance, Turkish entities that have provided material support and supported sanctions evasion, and others.

U.S.-CHINA RELATIONS

The Commerce Department has [announced](#) a new initiative with the Chinese government to establish a working group to seek solutions on commercial issues and advance U.S. commercial interests in China. The two governments also agreed to exchange export control enforcement information, hold discussions on the protection of trade secrets and confidential business information, and communicate regularly on commercial and economic issues.

U.S.-JAPAN-KOREA

The U.S., Japan, and Korea have [announced](#) a series of collaborative efforts, including efforts to address the diversion of dual use technologies and criminal export controls.

OCEAN HOUSE BOLLS

CBP has announced the removal of the Ocean House Bill Release from the ACE Certification Environment because the go-live for Ocean

NEW TRUMP TARIFFS?

Former President Trump has suggested that, if elected, a 10% tariff would be immediately implemented on all products from all countries. Clients should take this into consideration for 2024 planning.

UFLPA ENTITY LIST

Chinese printer cartridge company Ninestar Corp. and eight subsidiaries have filed a [complaint](#) in the U.S. Court of International Trade (CIT) challenging their inclusion on the UFLPA Entity List by the Forced Labor Enforcement Task Force (FLETF) without providing any rationale. [Ninestar Corp., et al. v. U.S.](#), CIT No. 23-00182.

FORCED LABOR TESTING

CBP has released data showing only 15% of garments selected for isotropic testing, which can indicate the geographic location of cotton, were barred from entry into the U.S. under the UFLPA. The data [showed](#) that from December 2022 to May 2023, 13 of 86 garments selected for testing were composed of cotton from China’s Xinjiang region. CBP commented that the small sample size is because isotropic testing is not yet a routine process.

REDELIVERY NOTICES

CBP has approved a Protest that challenged two Redelivery Notices which required redelivery without identifying the reason, finding them legally insufficient even though some of the redelivered merchandise was subsequently detained under the Withhold Release Order (WRO) for Malaysian disposable rubber gloves. HQ [H328699](#) (July 3, 2023).

TUNA FORCED LABOR

The National Oceanic and Atmospheric Administration (NOAA) has issued a [report](#) to Congress that alleges the use of forced and child labor in China and Taiwan tuna fishing.

FORCED LABOR IPO

Sixteen state attorneys general (AGs) have [asked](#) the Securities and Exchange Commission (SEC) to prevent SHEIN and other foreign-owned firms from being publicly listed on the U.S. stock exchange until they have provided SEC certification of full compliance with the UFLPA. The AGs also noted SHEIN’s use of *de minimis* entries to bypass CBP scrutiny.

trillion for the first time. House Bill of Lading (OHBOL) status inputs increased by over 25%.

232 PROPOSED RULE

The Bureau of Industry and Security (BIS) has published a Proposed Rule to improve the processes for Section 232 exclusion requests and objections. General Approved Exclusions (GAE) criteria would consider HTSUS classifications with very low rates of successful objections and General Denial Exclusions (GDE) would be implemented for HTSUS classifications with a high rate of successful objections. Requestors and objectors would need to meet additional requirements. Comments are due by October 12. For assistance with comments or for more information, contact [Bryan Brown](#), [Brian Murphy](#), or [Sean Murray](#). 88 [Fed. Reg. 58525](#) (Aug. 28, 2023).

232 EXCLUSION CHALLENGE

The U.S. Court of International Trade (CIT) has ruled that it possesses authority under its residual jurisdiction to hear a challenge to Section 232 steel product exclusions denied by the Commerce Department even though the plaintiffs' Customs entries are finally liquidated. The CIT remanded for Commerce reconsideration, and Commerce may instruct CBP to reliquidate entries that had not finally liquidated when the product exclusion requests were denied. [AM/NS Calvert LLC v. U.S.](#), CIT Slip Op. [23-129](#) (Sept. 6, 2023).

WTO SECTION 232 DECISION

A World Trade Organization (WTO) dispute panel has [rejected](#) China's claim that its retaliatory tariffs against the U.S. Section 232 steel and aluminum tariffs were justified.

301 PRODUCT EXCLUSIONS

USTR has issued a Notice extending the 77 existing COVID-19 related Section 301 product exclusions and 352 previously reinstated exclusions to December 31. 88 [Fed. Reg. 62423](#) (Sept. 11, 2023).

DEEMED EXPORT AO

BIS has [released](#) an Advisory Opinion (AO) that some controlled technology can be released to a foreign national working temporarily in the U.S. when the U.S. company already has a license to release the product to its foreign parent.

RUSSIAN PROCUREMENT

BIS has [issued](#) a Temporary Denial Order (TDO) against three individuals and four companies for allegedly being part of a Russian procurement scheme to obtain U.S. products and technology in support of the Russian military. 88 [Fed. Reg. 61499](#) (Sept. 7, 2023).

TRADE INCLUSIVITY

The Office of the United States Trade Representative (USTR) has extended the comment period on its "Advancing Inclusive, Worker-Centered Trade Policy" initiative to September 29. 88 [Fed. Reg. 60731](#)

Release has been postponed indefinitely. CSMS [#57609111](#) (Sept. 7, 2023).

OFAC SANCTIONS

The State Department has [announced](#) sanctions on eleven individuals and one entity connected with the forcible transfer and deportation of Ukrainian children to Russia and transferring Ukrainian children within Russia.

OFAC has [imposed](#) sanctions on three entities tied to a sanctions evasion network attempting to support arms deals between Russia and North Korea.

OFAC has [designated](#) Green Without Borders, a Lebanon-based organization that has provided support to and cover for Hizballah operations in southern Lebanon while publicly operating as an environmental organization.

CHARITY EXPORT VIOLATIONS

The Department of Justice (DOJ) has announced that NuDay, a New Hampshire charity, has [pleaded](#) guilty to falsely reporting the end destination of shipments as Turkey instead of Syria and falsely reporting values below the \$2,500 Census Automated Export System (AES) reporting threshold, resulting in the failure to execute AES filings.

SOLAR CELL AD/CVD

Commerce has finalized the antidumping and countervailing duties (AD/CVD) and the circumvention of solar cell duties. Commerce found Cambodia's New East Solar and Vietnam's Vina circumvented AD/CVD duties. These duties are on pause until June 2024 due to a two-year presidential waiver. 88 [Fed. Reg. 57419](#) (Aug. 23, 2023).

BOYCOTT LIST

The Treasury Department has issued an updated list of countries requiring cooperation with an international boycott. This includes Iraq, Kuwait, Lebanon, Libya, Qatar, Saudi Arabia, Syria, and Yemen. 88 [Fed. Reg. 57178](#) (Aug. 22, 2023).

AES ULTIMATE CONSIGNEE

The U.S. Census Bureau Trade Regulations Branch has posted [guidance](#) on determining the Ultimate Consignee for Automated Export System (AES) filings. The guidance includes examples showing the interaction between Ultimate Consignee, Ultimate Consignee Type, and Country of Ultimate Destination. Contact [Sean Murray](#) or [Chuck Ballard](#) with questions.

EPA HFCs IN ACE

The Environmental Protection Agency (EPA) has posted an updated version of its ACE Supplemental Guide that includes final guidance on electronically filing hydrofluorocarbons (HFCs) information in ACE. CBP and EPA plan to have the HFC requirements available for testing in ACE in early December 2023 and to deploy to

CAMBODIA FORCED LABOR

Walmart and Centric Brands are [reportedly](#) investigating their Cambodia supply chains based on allegations of links to women's prison labor.

CANADA FORCED LABOR

The Canadian Ombudsperson for Responsible Enterprise (CORE) has [published](#) complaints and initial assessment reports on Walmart Canada, Hugo Boss Canada, Diesel Canada, Ralph Lauren Canada, and Gobi Min, detailing allegations of supply relationships with Chinese companies that use Uyghur forced labor.

IPEF AGREEMENT TEXT

The Commerce Department has [published](#) the final text of the Indo-Pacific Economic Framework for Prosperity (IPEF) Supply Chain Agreement. The agreement does not include any duty reductions, but includes supply chain facilitation and resilience efforts, including the creation of three IPEF supply chain and labor rights groups for ongoing work.

UNVERIFIED LIST REMOVALS

BIS has removed 33 entities from its Unverified List (UVL) after it was able to complete end use checks. The removals include several Chinese technology entities and universities, along with entities in Pakistan, Indonesia, Singapore, Turkey, and the United Arab Emirates. 88 [Fed. Reg. 57002](#) (Aug. 22, 2023).

AES 97H FAQs

CBP has [released](#) a set of Frequently Asked Questions on Automated Export System (AES) "97H" shipment hold notices.

BUY AMERICA

The Office of Management and Budget (OMB) has released guidance on the "Build America, Buy America Act" (BABA). Contact [Brian Murphy](#) or [Sean Murray](#) with questions. 88 [Fed. Reg. 57750](#) (Aug. 23, 2023).

FCPA

3M has [agreed](#) to pay more than \$6.5 million to resolve charges that it violated the books and records and internal controls provisions of the Foreign Corrupt Practices Act (FCPA). The Securities and Exchange Commission (SEC) found that, from at least 2014 to 2017, 3M's Chinese subsidiary provided Chinese government officials with overseas travel that included guided tours, shopping, sightseeing day trips, and other leisure activities.

SPACE X LAWSUIT

The DOJ has filed a [lawsuit](#) against SpaceX for improperly using export control laws to discriminate against refugees and asylum seekers. This lawsuit follows a \$365,500 DOJ settlement with General Motors over similar claims. This is a nuanced area that requires care. Contact [Sean Murray](#) or [Bryan Brown](#) with

(Sept. 5, 2023).

Production in January 2024. CSMS questions.
#57584150 (Sept. 5, 2023).

OFAC IRAN SETTLEMENT

OFAC has [announced](#) a \$660,594 settlement with U.S. building materials supplier Construction Specialties Inc. for Iran sanctions violations by its UAE subsidiary. A whistleblower reported the subsidiary illegally reexported more than \$1 million of construction materials to Iran and falsified trade documents to hide the destination.

ANTIBOYCOTT

BIS has [imposed](#) a \$48,750 civil penalty against Pratt & Whitney Component Solutions, Inc (PWCS) to resolve violations of the antiboycott provisions of the Export Administration Regulations. PWCS voluntarily disclosed the conduct to BIS, cooperated with the investigation, and took remedial measures after discovering the conduct at issue, all of which resulted in a significant penalty reduction.

FTZ STATISTICS

**FOREIGN-TRADE ZONES BOARD
ACTIVITY AS OF 9/15/2023**

Approved	
Zones	301
Subzones*	885
Pending	
Zones	1
Subzones	7
Misc.	33

*From Fed. Reg. Notices

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