



CHINA 301 MODIFICATIONS

· On September 27, the increased China Section 301 duties went into effect for covered steel and aluminum HTSUS tariff classifications, as well for non-lithium ion battery parts, electric vehicles, face masks, critical minerals, ship-to-shore gantry cranes (with existing contract carve-out), solar cells, syringes, and needles. The 2024 duty increases are to 25%, except for solar cells (50%), syringes and needles (100%), and motor vehicles (100%). China 301 duty increases scheduled for January 1, 2025 include face masks, medical gloves, and semiconductors. The CBP CSMS message includes guidance on foreign-trade zone (FTZ) admissions. 89 Fed. Reg. [76581](#) (Sept. 18, 2024); CSMS #[62411889](#) (Sept. 26, 2024).

· To implement the China Section 301 duty exclusion for ship-to-shore cranes imported under contracts executed prior to May 14, 2024, and entered before May 14, 2026, CBP has deployed an importer declaration and certification in ACE. CSMS #[62284627](#) (Sept. 17, 2024).

· Contact [Marshall Miller](#), [Brian Murphy](#), or [Sean Murray](#) with questions.

CHINA 301 EXCLUSIONS

On October 15, the U.S. Trade Representative (USTR) posted a [notice](#) announcing the opportunity to file product exclusion requests from October 15 to March 31, 2025, to exclude certain machinery used in domestic manufacturing classified in 317 8-digit HTSUS subheadings from the China Section 301 duties. There are public comment and reply periods. Approved product exclusions will take effect from their [Federal Register](#) publication date through May 31, 2025. Contact [Brian Murphy](#), [Sean Murray](#), or [Marshall Miller](#) with questions, for our list of the 317 8-digit HTSUS subheadings, or for help with exclusion requests.

PRINCIPAL USE VS. EO NOMINE

In considering the application of a China Section 301 List 3 product exclusion to imported rubberized plastic steps mounted on steel bars attached to vehicles, the U.S. Court of International Trade (CIT) has construed the term “side protective attachments” as a “principal use,”

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CONNECTED VEHICLES

The Bureau of Industry and Security (BIS) has issued a lengthy Proposed Rule to address national security risks presented by connected vehicle technology from foreign adversaries, specifically China and Russia. The Proposed Rule focuses on hardware and software related to Vehicle Connectivity Systems (VCS) and Automated Driving Systems (ADS). Proposed regulations would prohibit, among other things, the knowing import of VCS hardware and connected vehicles with covered software designed, developed, manufactured, or supplied by persons owned, controlled, or subject to Chinese or Russian jurisdiction or direction. Connected vehicle importers and sellers and VCS hardware importers would have to submit a Declaration of Conformity beginning with the 2027 model year. Comments on the Proposed Rule are due by October 28. “Import” is defined as Customs entry, so it does not include FTZ admissions. Contact [Sean Murray](#) with questions. 89 Fed. Reg. [79088](#) (Sept. 26, 2024).

FTZ MDR REMINDER

FTZ Operators, as the party last receiving the merchandise, are responsible for filing a Manifest Discrepancy Report (MDR) with CBP if the amount of merchandise in a shipment does not align with the manifest, in-bond document, or transfer document. MDR information should be shared with the carrier and shipper so corrections can be made in the Automated Manifest System (AMS). Contact [Linda King](#) or [Bridget Beran](#) with questions.

ACE NOTIFY PARTY

FTZ Operators that do not have a direct EDI connection with CBP should set themselves up as a

DE MINIMIS CRACKDOWN

The Biden Administration has [announced](#) new policies to reduce de minimis shipments. The number of shipments entering the U.S. under the de minimis exemption has increased from approximately 140 million just 10 years ago to over one billion last year. The majority of these shipments originate from Chinese e-commerce platforms. New policies include:

- Precluding use of the de minimis exemption on shipments that fall under Sections 201 or 301 of the Trade Act of 1974 or Section 232 of the Trade Expansion Act of 1962.
- Requiring specific, additional data for de minimis shipments and clarification on who is eligible for the exemption.
- Excluding products like textile and apparel products that are import sensitive from de minimis eligibility.
- CSMS #[62520662](#) (Oct. 4, 2024) clarifies the use of Entry Type 86 for merchandise classified in HTSUS Chapter 98 and for customer returns.

PHARMA AND XINJIANG

C4ADS, a non-profit that researches and reports on illicit networks, has [issued](#) a report on links between pharmaceutical supply chains and the Xinjiang Uyghur Autonomous Region (XUAR). China is the world’s largest producer of active pharmaceutical ingredients (APIs). The report notes that XUAR manufacturing exposes the supply of certain pharmaceuticals to forced labor risks.

UFLPA ENTITY LIST

The Department of Homeland Security (DHS) has added two names to the Uyghur Forced Labor Prevention Act (UFLPA) Entity List. Baowu Group Xinjiang Bayi Iron and Steel Co., Ltd engages in iron ore mining and steel manufacturing and Changzhou Guanghui Food Ingredients Co., Ltd. produces and sells aspartame. DHS has also corrected the name of one listed UFLPA entity engaged in the manufacture of household appliances. CSMS #[62495807](#) (Oct. 2, 2024).

STEEL MELT & POUR

Effective November 21, Customs and Border Protection (CBP) will enable ACE functionality to report required countries of melt and pour for steel articles from all countries

than *eo nomine*, tariff provision. The case is headed to trial because there are disputed facts in applying the Carborundum commercial fungibility factors. Keystone Automotive Operations, Inc. v. U.S., CIT Slip Op. 24-108 (Oct. 7, 2024).

BIS VSDs

BIS has issued a Final Rule to amend the Export Administration Regulations (EAR) to incorporate Voluntary Self-Disclosure (VSD) policies from BIS memoranda into the EAR and change how BIS calculates penalty amounts. The failure to file a VSD is now an explicit aggravating factor when determining sanctions, and the dual-track system for resolving minor or technical violations is now in the EAR. Contact Sean Murray or Chuck Ballard with questions. 89 Fed. Reg. 75477 (Sept. 16, 2024).

CHINA EXPORT LICENSES

On September 23, the Commerce Department Office of Inspector General (IG) issued the results of its audit of BIS actions to counter China's military-civilian fusion strategy. The IG found the BIS export license approval process adequate for reducing risk, but found that risks presented by deemed exports have not been minimized. The IG questions whether companies have adequate internal deemed export controls to address the risks. Clients are encouraged to review and enhance their deemed export controls. Contact Sean Murray with questions.

BIS BANK GUIDANCE

On October 9, BIS issued guidance to banks and financial institutions for complying with the Export Administration Regulations (EAR). The guidance includes red flags and best practices for screening and due diligence. A special focus is on best practices to avoid violations of General Prohibition 10, which prohibits proceeding with a transaction with knowledge a violation will occur.

STEEL FASTENER SETS

CBP has proposed modifying a ruling on the tariff classification of steel assembly hardware sets from Vietnam. The sets consist of mixes of bolts, threaded rods, nuts, washers, lock washers, and wrenches. CBP previously classified the sets in HTSUS subheading 7318.16.0085, but has determined they should be classified in subheading 7318.15.5056 because the fasteners (bolts, threaded rods) impart the "essential character" of the sets. The proposed ruling provides additional guidance on the classification of fasteners. Clients are reminded that fasteners are a difficult subject for classification. Contact Sean Murray or Brian Murphy with questions. 58 Cust. B. & Dec. 1 (Sept. 11, 2024).

IPEF FOCUS AREAS

The Indo-Pacific Economic

Partnership (IPEF) will directly receive status messages from CBP. This allows the FTZ Operator to confirm CBP filings are correct and properly released and to monitor issues and broker changes. Contact Marshall Miller or Linda King with questions.

VAGUE DESCRIPTIONS

CBP previously announced that it would begin issuing rejections for vague merchandise descriptions after a 30-day warning period ended on October 6, but CBP has extended the warning period until November 11. CSMS #62490006 (Oct. 2, 2024).

RUSSIAN PROCUREMENT

On October 9, the Department of Justice (DOJ) announced that it had indicted two Russian Nationals and one German/Russian National for attempting to procure U.S. microelectronics. One of the individuals was arrested in Cyprus and extradited to the U.S. where he is facing charges for money laundering, smuggling, wire fraud, and export control violations. The other two individuals are still at large. The individuals used shell companies to procure the goods from electronics distributors, then ship them to their company in Russia. If convicted, the trio faces up to 20 years in prison.

WTO PANEL ON IRA TAX

The World Trade Organization (WTO) has established a dispute panel to investigate China's claims that certain U.S. Inflation Reduction Act (IRA) tax credits violate international trade rules by unfairly favoring American goods over imports, particularly in electric vehicles. The U.S. argues that the IRA tax credits are compliant with WTO rules and are essential to fight climate change.

GIFT CARDS & SANCTIONS

On October 8, the DOJ announced that a Los Angeles man, Mr. Kambiz Eghbali, has been arrested for bank fraud, money laundering, and attempting to evade the Iran sanctions. Mr. Eghbali, along with two accomplices, is accused of sending U.S. gift cards loaded with U.S. dollars to Iran. The cards were sent to one of Mr. Eghbali's accomplices in Iran who would pay Mr. Eghbali through a third country to evade the financial sanctions on Iran. If convicted, Mr. Eghbali faces up to 30 years in prison.

DATA CENTER VEUs

On September 30, BIS announced an expansion of the Validated End-User (VEU) program to include data centers. To be admitted into the VEU program, a data center and its government will have to provide some assurances, including agreeing to on-site reviews, satisfy substantial cyber-security and physical security requirements, and meet reporting requirements. 89 Fed. Reg. 80080 (Oct. 2, 2024).

for derivative steel articles from Mexico. CBP reminds that a steel mill certificate must be submitted by Document Image System (DIS) for steel articles. Contact Brian Murphy with questions. CSMS #62582900 (Oct. 9, 2024).

G7 ON RUSSIAN SANCTIONS

On September 24, the U.S., Canada, France, Germany, Italy, Japan, the United Kingdom, and the European Union (G7) issued joint guidance on preventing evasion of the export controls and sanctions on Russia. The guidance includes priority products, red flags, and best practices to address red flags and conduct due diligence.

BACKDATING PENALTY

On September 30, BIS announced a settlement with First Call of Ft Worth, Texas. First Call was accused of advising its customer to backdate a Prior Consignee Statement that is required prior to using the Strategic Trade Authorization (STA) license exception. Under terms of the settlement, First Call agreed to a partially suspended \$439,992 penalty.

OFAC PROCEDURES UPDATE

The Office of Foreign Assets Control (OFAC) has issued a Final Rule that updates its reporting regulations. The Final Rule makes permanent most of the rules that were originally issued as an Interim Final Rule on May 10. These rules relate primarily to reporting on blocked or transferred assets and requesting release of property blocked accidentally. There is a separate OFAC rulemaking on the new 10-year recordkeeping requirement. 89 Fed. Reg. 81358 (Oct. 8, 2024).

FTZ GROUP MAILBOX

To prevent missed communications from CBP, FTZ Operators should consider using a shared group mailbox for CBP communications on FTZs that links, at a minimum, to the FTZ Key Employees. The FTZ group email facilitates CBP communications and prevents gaps when individuals are out of office.

TOWEL ORIGIN

CBP has issued a Final Determination for U.S. Government Procurement purposes that the origin of surgical towels cut and sewn in Vietnam from Bangladeshi cotton fabric is Bangladesh, applying the textile and apparel rules of origin in 19 C.F.R. Part 102. 89 Fed. Reg. 83029 (Oct. 15, 2024).

FTZ STATISTICS

FOREIGN-TRADE ZONES BOARD
ACTIVITY AS OF 10/15/2024

	Approved
Zones	309
Subzones*	890
	Pending
Zones	1
Subzones	11
Misc.	33

*From Fed. Reg. Notices

Framework for Prosperity (IPEF) partners have [determined](#) that the initial areas of focus for the IPEF Supply Chain Council will be the semiconductor, chemical, and critical mineral sectors.

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