# TRADE NEWS WEEKLY

## February 17–February 21, 2020

A summary of international business news prepared by the Hawaii Foreign-Trade Zone 9 with the collaboration of the Research and Economic Analysis Division of the Department of Business, Economic Development & Tourism, and based on research and shipment data from Panjiva, Inc. which tracks companies involved in global trade. Other news sources may occasionally be included where indicated.

## New China Section 301 List 3 Product Exclusions

On February 19, the U.S. Trade Representative (USTR) announced forty-seven (47) new China Section 301 List 3 product exclusions and three (3) amendments to approved China Section 301 List 3 product exclusions. The new product exclusions are set forth in one (1) ten-digit HTSUS subheading (covering certain nonwoven disposable headgear) and forty-six (46) new product-specific descriptions. They include certain titanium dioxide, rubber stoppers for sunroofs, stuff sacks, leather covers, wood flooring, fiberboard desk accessories, synthetic and artificial fabrics, shovels, fuel filters, electronic scales, AC motors, rectifiers, power supplies, inverters, printed circuit board assemblies, toddler beds, parts of office furniture, etc. These product exclusions are retroactive to September 24, 2018, and expire on August 7, 2020, so importers only have six (6) months to act on them.

Three amendments to previously-approved product exclusions alter the product-specific descriptions. While two of the three amendments expand the scope of these product exclusions, the product exclusion for dog and cat leashes and collars is now limited to only dogs. Companies importing cat products within the scope of this previously-approved product exclusion should contact their broker to consider legal options.

The product exclusions from the China Section 301 duties are available to any importer for any product that falls within the special product descriptions and enumerated ten-digit HTSUS classification. This is true regardless of whether the importer filed an exclusion request. Importers may also benefit through filing Post-Summary Corrections or Protests for past entries now covered by a List 3 production exclusion to secure refunds plus interest. It is important to identify affected entries and filing deadlines. The refund process is complicated and should be carefully considered.

***Source: Miller & Company P.C.***

## China 301 List 4A

Effective February 14, the Section 301 List 4A additional duties on 3,800 8-digit tariff lines were reduced from 15% to 7.5%. The reduction is based on the "Phase One" agreement reached by the U.S. and China on January 15. No new HTSUS classification is being utilized for the 7.5% rate.

CBP has issued an administrative message stating that the 15% rate of duty still applies to merchandise admitted in Privileged Foreign ("PF") status before February 14. The National Association of Foreign-Trade Zones (NAFTZ) is filing a letter with Customs seeking reconsideration of the CSMS message.

***Source: Miller & Company P.C.***

## List 1 & 3 Product Exclusions

On February 5, the U.S. Trade Representative (USTR) announced new China Section 301 List 3 product exclusions. A detailed analysis of this round of product exclusions is provided here.

Of the 30,286 List 3 exclusion requests, 58.4% are still pending. Of the 41.6% of List 3 product exclusion requests that have been decided, only 3.1% have been approved.

On February 5, the USTR announced the process for requesting extensions of List 1 product exclusions set to expire on April 18, 2020. Interested parties may request extensions until March 16.

On February 10, the USTR announced four new List 1 product exclusions and made technical amendments to previously-approved List 1 product exclusions.
***Source: Miller & Company P.C.***

## China Retaliatory Tariffs

In response to the "Phase One" agreement with the U.S., China has announced reductions to retaliatory tariffs imposed on $75 billion in U.S. imports, effective February 14. Depending on the product, these tariffs will be cut in half from 10% to 5% or from 5% to 2.5%.
***Source: Miller & Company P.C.***

## Huawei Exports

The Bureau of Industry and Security (BIS) has extended the temporary general license (TGL) for Huawei and its non-U.S. affiliates to April 1, 2020. Under the TGL, only those exports and activities for continuing operations of existing networks and equipment, and for the support of existing cell service, are authorized. Other exports require a license from the BIS.
85 Fed. Reg. 8722 (February 18, 2020).

The Justice Department has charged Huawei and four subsidiaries (two U.S. subsidiaries) with racketeering and conspiracy to steal U.S. technology and trade secrets. The indictment also includes new information on Huawei transactions with countries subject to U.S., EU, and UN sanctions.

Various news outlets have reported that the Office of Management and Budget (OMB) is holding a Proposed Rule that would further restrict American company sales to Huawei while the concerns of certain government agencies on the impact to U.S. firms that export components to Huawei are debated.

In a February 5 press release, Alpha and Omega Semiconductors said it is under Justice Department investigation for export violations related to Huawei shipments.
***Source: Miller & Company P.C.***

## ACE Implementation

Implementation of CBP's Automated Commercial Environment (ACE) still continues. CBP has released a revised schedule for continued ACE implementation that includes enhancements to ACE Truck Manifest (April 2020), modernizing the e214 FTZ admission process (June 2020), and Fish and Wildlife Service (FWS) message set implementation (September 2020).
***Source: Miller & Company P.C.***

## Federal Trade Administration Agenda

The Trump Administration is continuing to pursue bilateral, as opposed to multilateral, trade agreements. Current negotiations include the EU, UK, India, and Kenya. President Trump could announce a deal with India during his upcoming visit that restores Indian GSP treatment in return for increased U.S. access to agricultural markets.
***Source: Miller & Company P.C.***

## Modification to EU Section 301 Duties - Boeing/Airbus Dispute

On February 14, 2020, the U.S. Trade Representative (USTR) announced modifications to the existing European Union (EU) Section 301 duties currently imposed on certain EU products at 10% and 25%. The existing duties went into effect on October 18, 2019. 84 Fed. Reg. 54245 (October 9, 2019). These E.U. Section 301 duties are retaliation for the EU's unfair subsidization of large civil aircraft.

The duty rate for certain new airplanes and other new aircraft will increase from 10% to 15% on March 18, 2020. Aircraft parts from the EU will remain exempt from the additional Section 301 duties. The additional duty rate for other miscellaneous products, including single-malt scotch, food products, and certain machinery tools will remain at 25%. However, effective March 5, 2020, the additional 25% duty on prune juice will be eliminated and butcher or kitchen knives from Germany or France will, for the first time, be subject to an additional 25% duty. The complete list of revisions to the current EU Section 301 duties is provided in Annex 2 of the USTR notice. As with the current EU Section 301, covered products must be admitted into an FTZ in Privileged-Foreign (PF) status on or after the effective dates. Prior to March 5, FTZ clients with on-hard inventory either removed or added to the retaliation list should contact Marshall Miller or Linda King.

On December 12, 2019, the USTR announced a review of the EU Section 301 retaliation list. 84 Fed. Reg. 67992 (December 12, 2019). During that review, the USTR proposed and sought comment on the imposition of duties up to 100% for a wide range of products, including aircraft assemblies and other aircraft parts, not included on the initial EU Section 301 retaliation list. While some commentators had predicted the use of "carousel retaliation," where the products subject to retaliation periodically shift to increase pressure on EU exporters and governments, the goods subject to these EU Section 301 duties have not been significantly changed. However, as the USTR has already proposed additional duties of up to 100% for these additional products and considered public comments on such an increase, it is possible the USTR may take expedited action to alter the products and/or duty rates on the EU Section 301 retaliation list.

***Source: Miller & Company P.C.***

## Nissan, Tata Join the List of Automakers Facing COVID-19 Disruptions

The spread of the COVID-19 coronavirus has continued in the past week. While more than 99.1% of cases have arisen in China, disruptions to manufacturing have spread across global automotive supply chains.

The auto industry had already been struggling. There was a 7.6% drop in total Japanese auto exports in December and a 5.8% slide in U.S. imports of vehicles from all countries in the same month because of falling sales.

Nissan has had to cut production of the Rogue SUV in its Kyushu factory in Japan that's normally sold into the U.S. Nissan's total exports from Japan already fell by 10.8% year over year in December while U.S. seaborne imports linked to the firm dropped 9.2% in January compared to a year earlier.

It's not just Japanese auto firms that have been impacted. Tata's Jaguar Land Rover factory in China has closed because of the outbreak, which may eventually choke off the surge in shipments to the U.S. by the firm which had reached 24.3% year over year in January.

## Trump's Budget Indicates Major Trade War De-escalation

U.S. Treasury income from tariffs climbed by 4.4% year over year in January to reach $6.92 billion. A widening of the tariff base on imports from China was the main reason, with the total income from tariffs on China applied since July 2018 having reached $4.09 billion in January.

The Trump administration's 2020/21 budget document anticipates a 41.3% drop in customs duty income in the 2021/22 fiscal year compared to the current year. That would indicate a drop in tariff coverage or rates is included in the forecast.

Most tariffs remain in place under the Phase 1 trade deal with a trimming of duties on so-called List 4 tariffs only likely to cut the total U.S. tariff take by 6.7%.

The budget figures, therefore, suggest the administration expects a Phase 2 trade deal to be completed with a significant reduction in tariff rates – or that U.S. companies will accelerate their diversion of supply chains away from China.

## COVID-19 Set to Leave Hole in JCB's U.K., U.S. Supply Chains

Construction equipment maker JCB is cutting production in the U.K. because over a quarter of its Chinese suppliers remain closed due to COVID-19 related restrictions. COO Mark Turner has indicated operations "will be disrupted in the coming weeks."

While China only represented 3.8% of total British imports of intermediate industrial components, at £2.72 billion ($3.54 billion), there will still be a significant number of firms facing similar challenges as JCB.

There may also be a knock-on to JCB's sales in the U.S. Seaborne imports linked to the firm rose by just 2.0% year over year in the three months to January 31. Of those, 59.4% were linked to completed machines imported from the U.K. That leaves the firm exposed to developing U.S.-U.K. trade relations. A further 6.6% were sourced from China, potentially including spare parts that could be interrupted by the COVID-19 issues.

JCB'S INDIA SHIPMENTS POWER UP, U.K. SUPPLIES SLOW

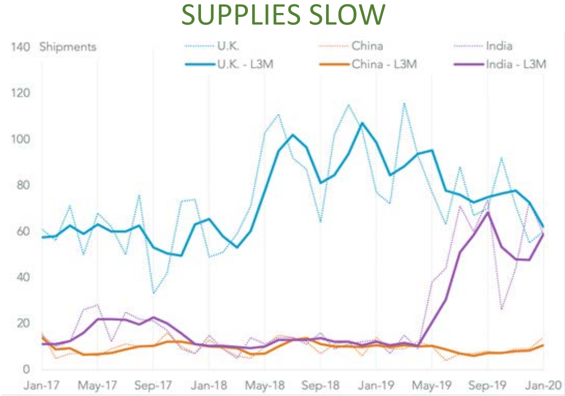


*Chart segments U.S. seaborne imports linked to JCB on a month and three-month average basis. Source: Panjiva*

## Latest Round of Tech Restrictions in Doubt

There appear to be disagreements within the Trump administration as to whether to apply the "foreign direct product" rule to Chinese purchases of semiconductors. While press reports have indicated the Commerce Department is considering such an intervention - which would require Chinese semiconductor companies to gain licenses from the U.S. government to use American IP - President Trump has specifically ruled it out.

If there is an impasse, there is little likelihood of a Phase 2 trade deal being reached given the breadth of technology restrictions being considered across different branches of the U.S. government.