

TRADE NEWS WEEKLY

September 21–September 25, 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.

China Section 301 List 1 and 2 Product Exclusion Extensions

On September 17, 2020, the U.S. Trade Representative (USTR) announced the extension of sixty-two (62) China Section 301 List 1 product exclusions of the 310 List 1 product exclusions set to expire on September 20, 2020. The USTR also announced the extension of seventeen (17) China Section 301 List 2 product exclusions of the 89 List 2 product exclusions set to expire on September 20, 2020. The 62 extended List 1 product exclusions cover a wide range of products, such as certain submersible centrifugal pumps, indoor tabletop water fountains, rotary compressors, cutting pads, ionization filters, animal feeding machinery and parts thereof, ink cartridges, press brakes, tool holders, valve bodies, angular contact bearings, electric motors, printed circuit board assemblies, coaxial connectors, four-wheel off-road vehicles, electrical works trucks, disposable ECG electrodes, pulse oximeters, and anesthesia masks. The 17 extended List 2 product exclusions cover certain tape, polyethylene and polyvinyl chloride rolls, film, and sheet, ASTM A572 iron or steel girders, ASTM A572 iron or steel pipe with connectors, steel pipe and tube posts, monopolar conductors, and electric motorcycles. These extended China Section 301 List 1 and 2 product exclusions were only extended for approximately three months: they will expire on December 31, 2020.

The product exclusions from the China Section 301 duties are available for any importer for any product that falls within the special product descriptions and enumerated ten-digit HTSUS

classifications. This is true regardless of whether the importer filed the initial product exclusion request. Clients may also benefit by filing Post-Summary Corrections (PSCs) or Protests for entries of goods covered by a product exclusion to secure refunds plus interest. Unless liquidation extensions are granted, Protests may be required for liquidated entries. 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.**

CBP FTZ E-214 Phase II

E-214 Phase II Release II deployment is scheduled for September 26, 2020. The changes will include posted admission correction requests, replace requests, merchandise zone status changes, canceling PTTs, notification messages and an expanded zone ID which will not be immediately available. **Source: Miller & Company P.C.**

e-214 FTZ Admission Modifications Test Program - Phase 2

On September 25, 2020, the U.S. Customs and Border Protection (CBP), Department of Homeland Security (DHS), announced modifications to the electronic Foreign Trade Zone (FTZ) admission applications. New functionality includes the ability to request from CBP a Post Admission Correction (PAC) after concurrence of the e-214 with the ability to maintain the Admission and PF date; and the ability to cancel / delete a Permit to Transfer (PTT) by way of a CBP assigned PTT Unique



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Identifier (PID). 85 Federal Register 60479 (September 25, 2020).

Further guidance on the process for Merchandise Zone Status changes are contained in the recently posted FTZ CATAIR Version 3.0 (September 2020). We expect to see a more detailed Business Document that will provide further guidance and FAQ's.

As of September 26, 2020, modifications to the Test will become operational with the exception of the expanded nine-digit zone identification number, which will be implemented as of January 25, 2021. The Test will continue until concluded by way of announcement in the Federal Register. Clients should expect ACE e-214 management issues.

Source: Miller & Company P.C.

China Forced Labor WROs

On September 14, CBP issued five Withhold Release Orders (WROs) on products from China's Xinjiang Uyghur Autonomous Region. The WROs direct CBP to withhold release of: hair products from a specific industrial park, apparel from two producers, cotton produced by Xinjiang Junggar Cotton and Linen Co., computer parts made by Hefei Info Technology Co., and all products made at the Lop County No. 4 Vocational Skills Education and Training Center. CBP is still considering broader WROs on cotton, textiles, and tomatoes from the region. **Source: Miller & Company P.C.**

Hong Kong Marking Changes

CBP has announced an additional 45-day transition period to November 9 for marking Hong Kong-origin products as China origin pursuant to Presidential Executive Order 13936. **Source: Miller & Company P.C.**

TikTok/WeChat

The Commerce Department is facing a September 20 deadline for clarifying the transactions covered by President Trump's Executive Orders on TikTok and WeChat. Companies engaging in any transactions involving the companies owning the software apps should be preparing for the potential impact. **Source: Miller & Company P.C.**

CTPAT

In comments at the CBP Virtual Trade Week on September 9, CBP CTPAT Director Manuel Garza indicated that there are currently about 11,400 CTPAT members covering approximately 53.4% of U.S. imports by value but since January, more than 100 firms have withdrawn primarily for financial or supply chain reasons. CBP has also removed 138 companies for failure to respond to agency validation requests and suspended 52 companies.

Source: Miller & Company P.C.

U.S./EU Trade Agreement

On August 21, the U.S. and EU announced an agreement on a limited package of tariff reductions. Most unusually, the only duty-free reductions on U.S. exports to the EU are live and frozen lobster products. The U.S. will reduce its duty rates by 50% on a range of EU products, including prepared meals, certain crystal glassware, surface preparations, propellant powders, cigarette lighters, and lighter parts. The tariff reductions are retroactive to August 1, 2020.

Source: Miller & Company P.C.

Year in Trade 2019

The U.S. International Trade Commission has released its Year in Trade 2019, which is an annual review of developments regarding the administration of U.S. trade laws and agreements. Those in international trade are encouraged to review this highly detailed and informative publication.

https://www.usitc.gov/press_room/news_release/2020/er083111640.htm

Source: Miller & Company P.C.

Chinese Military Islands

BIS has placed 24 Chinese entities on the Entity List for their involvement in building artificial islands in the South China Sea. Other entities and individuals from several countries were added at the same time for violations ranging from shipping U.S. goods to Iran, lying to BIS, and contributing to Russia's biological weapons program. 85 Fed. Reg. 52898 (August 27, 2020). **Source: Miller & Company P.C.**



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FedEx v. BIS

The U.S. District Court for the District of Columbia has dismissed a complaint filed by FedEx alleging that the export controls in the Export Administration Regulations (EAR) violate the Due Process Clause of the 5th Amendment, exceed the agency's delegated authority, and place such onerous restrictions on its export shipment operations that it must either cease certain shipments or risk enforcement action. The court found that the EAR satisfies the "rational basis" standard and carriers like FedEx have the institutional knowledge and scale to apply the EAR. *Federal Express Corp. v. U.S.*, Civil Action No. 19-1840 (Sept. 10, 2020). **Source: Miller & Company P.C.**

U.S. Ag Sales to China Surge

U.S. agricultural sales to China have surged as a result of the Phase 1 trade deal between the two countries. Total export sales of soybeans signed year-to-date at September 10 reached 24.9 million tons compared to 10.0 million tons at the same time in 2017 – the baseline for the trade deal. That's still below the 30.8 million tons of physical exports in 2017 in total so the proof of the pudding will only come as exports peak in October.

Sales of pork have also surged with 510,400 tons of sales agreed year-to-date being equivalent to 9.2x the 2017 physical export level. The surge in exports may continue given Chinese authorities have blocked imports from Germany due to COVID-19 concerns.

The rise in exports from the U.S. to China has been led by a 370% jump in shipments linked to JBS year to date at August 31, 2020, compared to the same period of 2017, while WH Group's shipments rose by 90.1%. Tyson Foods has seen a pickup this year but is well below 2017 levels.

Vietnam Pivots to PPE Production

The Vietnamese government has asked apparel manufacturers to pivot to producing masks and other pandemic-related personal protection equipment to make up for a drop in garment exports. Analyzed data shows garment imports

to the U.S. from Vietnam fell by 15.9% year over year in the second quarter of 2020, a decrease of \$167 million.

U.S. face mask imports from Vietnam have skyrocketed, with a 1,179% increase over the same period but only resulted in shipments worth \$90.9 million. U.S. imports of face masks from China, meanwhile, increased by \$6.7 billion dollars in the second quarter, far outweighing Vietnam.

Shipments from China have continued to dominate U.S. imports with shipments linked to Walgreens, equivalent to 332 TEU (20-foot equivalent units) in 2020 through August 31, being sourced solely from China. The largest non-logistics shipper to source from a different country is Fisher Scientific, importing 111 TEU from Singapore.

WTO Sides with China; Decision Largely Irrelevant

The World Trade Organization has sided with China in a dispute relating to U.S. Section 301 duties on Chinese imports. The details of the case are largely irrelevant at this stage. China has already applied retaliatory tariffs while both sides are at a standstill resulting from the Phase 1 trade deal.

The case also provides a reminder that the WTO dispute settlement process remains in limbo pending a restructuring of the dispute settlement process. There are signs that the U.S. may be willing to parlay in that regard though a solution seems unlikely before the elections.

Tesla Files Suit for Tariff Relief

Tesla has joined other automakers and as many as 3,330 other firms in filing suit against the U.S. government's Section 301 duties on imports from China. In Tesla's case, that includes the computer systems used in the Model 3 vehicle where a request for exemptions from 25% tariffs was refused last year.

Data shows that the proportion of total U.S. imports of the type of computer covered by that tariff sourced from China fell to 10.9% of the

total in the 12 months to July 31 from 25.4% in 2017. The share of China in U.S. imports of all car parts fell to 9.9% in the past 12 months from 12.1% in 2017.

Most U.S. car parts importers have continued to aggressively cut their shipments from China. Data shows U.S. seaborne imports of parts from China linked to LCI and Ford dropped by 48.7% and 56.2% year over year, respectively, in July and August combined. Others are heading the other way with Gates Industrials and Genuine Parts imports rising by 9.2% and 24.8%, respectively, possibly reflecting restocking rather than long-term supply chain choices.

Trade Agreement Review Shines Light on Post-Election Deal Uncertainty

The U.S. ITC will hold a hearing on October 6 as part of its ongoing review of the economic impact of U.S. trade agreements. The report, due in June 2021, is required under the Trade Promotion Authority rules which lapse a month later. TPA allows the administration to bring trade deals to Congress with a simple up/down vote and helps simplify trade negotiation. The hearings may bring the success, or otherwise, of USCMA and KORUS into the spotlight.

The future for U.S. trade deal making is clouded by the forthcoming elections. A second Trump administration is likely to focus on further mini-deals as well as larger deals with the U.K. and Kenya among others while a Biden administration may pause deal-making in favor of domestic manufacturing support initially.

Biden's Trade Policies Shows Tariffs Remain on Agenda

Former Vice President Biden's foreign policy advisor, Tony Blinken, has confirmed key aspects of a potential Biden administration's trade policies. Notably, Blinken has stated that tariffs remain firmly on the agenda, noting "we would use tariffs when they are needed but backed by a strategy." The measures include taking a multilateral / coalition building approach to dealing with China as well as de-escalating tensions with key partners including Europe. The U.K. may not benefit from a deal

depending on the outcome of current legislative action regarding Ireland.

It's likely that a second Trump administration would continue its focus on tariffs as well as unilateral action against China as well as developing a mixture of mini and full trade deals with partners.

Microsoft Xbox Hits Power-Up in Pandemic Console Wars

Nintendo has announced an increase in production of the Switch gaming console, citing demand from consumers looking for stay-at-home entertainment options. At the same time, Sony is reported to have had trouble ramping up the production of the new PlayStation 5 console.

Data for console imports shows that U.S. imports had previously struggled, with imports from China, which accounted for 90.4% of U.S. imports in the past 12 months, falling by 36.4% year over year in the second quarter. Some of that business may have shifted to other Asian countries, whose imports increased by 895.7% year over year in the same period.

Shipment level analysis of the three major console brands show that Nintendo and PlayStation have continued to decline recently with imports associated with Nintendo down by 9.9% year over year in July and August combined. PlayStation imports saw a faster decline of 34.3% that could be partially attributed to planned inventory lightening before their launch.

Microsoft's Xbox brand followed the opposite trend, with imports increasing by 56.5% year over year. That may indicate that the launch of their new console, the Xbox Series X / S is on track.

