

# TRADE NEWS WEEKLY

February 22–February 26, 2021

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.

## Forced Labor

CBP has announced the detention of ninety (90) shipments of goods on suspicion of the use of forced labor between October 1, 2020, and December 31, 2020.

CBP Executive Assistant Commissioner, Brenda Smith, announced in a webinar that Withhold Release Orders (WRO) issued on products originating in the Xinjiang Province of China will be applied with a “scalpel” approach and targeting will focus on the highest risk shipments.

On January 27, 2021, Senators Marco Rubio (R-FL) and Jeff Merkley (D-OR) introduced the Uyghur Forced Labor Prevention Act. The bill would make it illegal to enter goods made with Uyghur forced labor in the Xinjiang Uyghur Autonomous Region.

CBP has posted responses to frequently asked questions (FAQs) on the Xinjiang Uyghur WRO. The topics cover the scope of the WRO, proving the admissibility of detained shipments, best practices in preventing forced labor imports, and the use of bonded warehouses.

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

## Section 232 Litigation

On February 4, 2021, a three judge panel of the U.S. Court of International Trade (CIT) decided in favor of the U.S. government in an importer’s challenge to the validity of the Section 232 steel duties. The CIT found that the Commerce Department’s Section 232 steel report and President Trump’s determination that steel imports posed an impending threat were not reviewable, the undefined duration of the

Section 232 steel duties did not violate Section 232, and President Trump’s modification of the Section 232 steel duties on EU, Canada, and Mexico steel products were permissible. Universal Steel Products, Inc. v. U.S., CIT Slip Op. 21-12 (February 4, 2021).

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

## Vietnam 301 Deferred

On January 22, 2021, the Office of the U.S. Trade Representative (USTR) issued a Notice that it had determined Vietnam’s currency valuation practices are unreasonable and actionable under Section 301. The Biden Administration is not expected to take any immediate action. 86 Fed. Reg. 6732 (January 22, 2021).

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

## Section 321

Reports indicate that CBP plans to propose new Customs entry requirements for importing low-value shipments under Section 321. New data elements may include additional information on the buyer and seller, photos of the commodity, and other transactional details to align these imports with normal Customs entries in order to enforce counterfeit and PGA laws. It is also expected that Section 301 trade remedy duties will be required.

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

## FTZ ACE Entry Guidance

CBP has released a revised version of the ACE Entry Summary Rules and Process document. The revisions include specific requirements for Type 06 FTZ entries and provide that CBP Form 7501s will not be accepted if they contain HTS



521 ALA MOANA BLVD, STE 101 • HONOLULU, HI 96813

Tel. 808-586-2507 • administrator@ftz9.org

www.ftz9.org • www.facebook.com/HawaiiFTZ

Twitter at: @FTZ9

numbers, zone status, or country of origin combinations that were not present on the corresponding CBP Form 3461 Cargo Release. Clients should understand that ACE programming does not enforce the specific longstanding legal requirements. CSMS #45523296 (January 13, 2021).

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

## Washing Machine Safeguards

On January 14, 2021, President Trump extended the Section 201 safeguard action on large residential washers for two years. 86 Fed. Reg. 6541 (January 21, 2021).

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

## Burma/Myanmar Sanctions

In response to the military coup, President Biden issued an Executive Order on February 10. In addition, the Office of Foreign Assets Control (OFAC) has added several individuals to its Specially Designated Nationals (SDN) List. Under the terms of the EO, the assets of these individuals and their families are blocked. 86 Fed. Reg. 9429 (February 12, 2021).

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

## Trademark Recordation

International Trade Companies are encouraged to record their trademarks with CBP to secure import seizures of violative product. CBP has the authority to detain, seize, forfeit, and/or destroy merchandise seeking entry into the U.S. if it bears an infringing trademark or copyright that has been registered with the U.S. Patent and Trademark Office (USPTO) or the U.S. Copyright Office and subsequently recorded with CBP. **Source: Miller & Company P.C.**

## Third Country AD/CVD Glitch

From October 5, 2019, to October 28, 2020, importers that were required to provide third-country AD/CVD case numbers were unable to do so. CBP has instructed importers to file Post Summary Corrections (PSCs) within the next sixty (60) days to add third-country AD/CVD numbers. CSMS #46031819 (February 3, 2021). **Source: Marshall & Company P.C.**

## Aluminum Extrusions

On January 22, 2021, the Commerce Department announced the completion of its administrative review of the Countervailing Duty (CVD) Order on aluminum extrusions from China for 2018. Commerce determined that countervailable subsidies were being provided to producers and exporters and outlined final assessment rates for six Chinese companies. The remaining Chinese entities withdrew their requests for administrative review and will be subject to CVD duties equal to the cash deposit rate in effect at the time of entry. 86 Fed. Reg. 6630 (January 22, 2021).

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

## Chinese General Licenses

On January 27, the Office of Foreign Assets Control (OFAC) issued General License (GL) 1A which extended authorization of certain transactions in securities of companies that "closely match" those entities named as supporters of the Chinese military through May 27. OFAC has also updated frequently asked questions (FAQs) 878 and 879.

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

## Hong Kong SDN List

On January 22, 2021, the State Department added nineteen individuals to the Specially Designated Nationals (SDN) List for developing, adopting, or implementing China's National Security Law for Hong Kong. All property and interests of these individuals subject to U.S. jurisdiction are blocked and U.S. persons are generally prohibited from engaging in transactions with them. 86 Fed. Reg. 6730 (January 22, 2021); 86 Fed. Reg. 6729 (January 22, 2021).

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

## FWS Message Set Delayed

U.S. Fish and Wildlife Service (FWS) has delayed implementation of the FWS Message set in ACE. FWS expects the mandatory submission of import data for FWS regulated products to take effect in June 2021. Contact Linda King with questions. CSMS #46044069 (February 3, 2021). **Source: Marshall & Company P.C.**



521 ALA MOANA BLVD, STE 101 • HONOLULU, HI 96813

Tel. 808-586-2507 • administrator@ftz9.org

www.ftz9.org • www.facebook.com/HawaiiFTZ

Twitter at: @FTZ9

## U.S.-China Trade Deal

According to data from China's customs agency, China has only purchased 58.1% of the agreed \$172 billion in goods from the United States as outlined in the Phase One Trade Deal.

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

## Buy America Policy

On January 25, 2021, President Biden issued an Executive Order (EO) to increase and enhance government "Buy America" preference programs. The EO directs the federal government as general policy to maximize the use of U.S. goods, products, and services. More specifically, it creates a new "Made in America Office" to centralize federal government efforts, increases transparency and scrutiny of "Buy America" waivers, and directs the Federal Acquisition Regulatory Council to consider issuing a new rule within 180 days that would increase domestic content requirements, increase price preferences for domestic products, and replace the component test for identifying U.S. end products and construction materials. 86 Fed. Reg. 7475 (January 28, 2021).

On January 14, 2021, President Trump issued an EO for the U.S. Postal Service to revise its Supplying Principles and Practices (SPP) to bring them in line with the Federal Acquisition Regulations (FAR) Buy American preferential price differentials and domestic content requirements. 86 Fed. Reg. 6547 (January 21, 2021). **Source: Marshall & Company P.C.**

## CBP Scammers

CBP has issued an alert to importers of a telephone scam involving unsolicited calls from individuals purporting to be U.S. Border Patrol Agents or CBP Officers seeking banking information. Recipients of these calls are encouraged to report them to CBP and the Federal Trade Commission (FTC).

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

## WTO Director General

The Biden Administration has moved to break the logjam over the World Trade Organization (WTO) Director General by endorsing the Nigerian Finance Minister, Ngozi Okonjo-Iweala.

South Korean Trade Minister, Yoo Myung-hee, subsequently dropped her candidacy.

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

## China Policy Review

On January 25, 2021, White House Press Secretary, Jen Psaki, stated that the China Section 301 tariffs, the Commerce Department's inclusion of Huawei on the Entity List, and Executive Orders restricting U.S. investment in companies associated with the Chinese military are under review by the Biden Administration.

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

## Cuba

On January 22, 2021, the State Department designated Cuba as a state sponsor of terrorism. 86 Fed. Reg. 6731 (January 22, 2021). Contact Sean Murray or Chuck Ballard with questions.

On February 5, 2021, Senate Finance Committee Chair, Ron Wyden (D-OR), introduced the U.S.-Cuba Trade Act of 2021, which would repeal sanctions and establish normal trade relations with Cuba.

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

## FDA Seafood

On February 8, 2021, the FDA announced the launch of the second phase of its Artificial Intelligence (AI) Import Seafood Pilot program. The program is intended to utilize machine learning to target violative seafood shipments. CSMS #46144525 (February 8, 2021).

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

## APHIS LACEY Implementation

CBP has announced updates to the APHIS Lacey Implementation Guide to incorporate a Lacey de minimis disclaimer code. CSMS #46108805 (February 5, 2021).

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

## Rare Earth Quota Hike Offers Benefits for China

The Chinese government has reportedly increased the first of two annual rare earth quotas by 27% year over year in 2021. The increase will enable Chinese exporters to continue to benefit from growing demand for



521 ALA MOANA BLVD, STE 101 • HONOLULU, HI 96813

Tel. 808-586-2507 • administrator@ftz9.org

www.ftz9.org • www.facebook.com/HawaiiFTZ

Twitter at: @FTZ9

electric vehicles and renewable energy systems globally.

It follows reports of new regulations that will limit exports of both the materials and technology linked to their production should national security needs - i.e., deterioration in relations with the U.S. - deem it necessary. The quota increase may also be designed to keep a lid on prices, making it more challenging for the Biden administration to make domestic manufacturing economic.

**U.S. ENERGY SUPPLIES TO CHINA SURGE IN 2020**

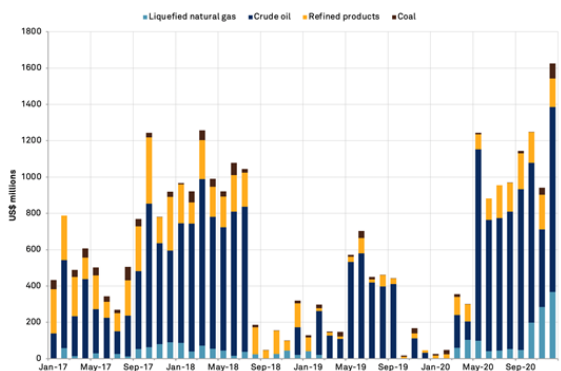


Chart segments U.S. exports of energy products to China covered by the phase 1 trade deal according to hydrocarbon type. Source: Panjiva

**Biden Follows Trump on Hong Kong, WTO Policy**

The Biden administration appears to have decided to continue with the Trump-era policy of defining goods made in Hong Kong as being "Made in China" and has cited national security interests in refusing to accept a WTO dispute settlement process.

Under President Trump, the U.S. symbolically changed the definition for Hong Kong products following China's implementation of new national security rules in Hong Kong. It had not yet taken the more practical steps of altering import rules or applying the Section 301 duties that underpinned the trade war to imports from Hong Kong.

The continuation of the policy under President Biden may simply represent a bargaining chip for later negotiations as well as reflecting the U.S. WTO delegation's transitional status. The

Biden administration is still within its well-defined alliance-building phase of developing whole-of-government China policies.

Additionally, the Biden administration "is not in a position to support" proposals from the EU and others to restart the WTO's dispute process in its current form having cited "systemic concerns for more than 16 years and across multiple U.S. Administrations." The latter confirms the likelihood that progress on reformation of the WTO can be made, but a solution is unlikely to be reached in 2021.

**Four Targets for Biden's (Long Awaited) Supply Security Order**

More details on President Biden's long-awaited Executive Order regarding supply chain security are continuing to emerge with a formal announcement due by the end of February. At its center, there will reportedly be an aim to secure supplies of materials including rare earths, components including semiconductors and electric-vehicle batteries and medical supplies more broadly. The EO will likely mandate a round of detailed studies to be followed by detailed implementation later in 2021.

Separately, Senate majority leader, Chuck Schumer (D-NY), has stated that legislation to support "serious investments to strengthen the U.S. semiconductor industry to outcompete China and stop depending on foreign sources" will be proposed during the spring.

All four product groups have been highlighted in prior Biden administration policy with the critical element being precisely how such onshoring will be achieved. In the case of medical supplies, the Defense Production Act has been used during the pandemic, while rare earths have been a focus for both the Trump and Biden administrations.

For other areas, it may be challenging to craft support measures that don't fall afoul of WTO or other trade deal rules. The inclusion, or otherwise, of imports from natural allies - particularly Canada and Mexico - may also be a point of controversy.



521 ALA MOANA BLVD, STE 101 • HONOLULU, HI 96813  
 Tel. 808-586-2507 • administrator@ftz9.org  
 www.ftz9.org • www.facebook.com/HawaiiFTZ  
 Twitter at: @FTZ9