

TRADE NEWS WEEKLY

September 13–September 17, 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.

Biden Trade Agenda

Several news sources are reporting:

The U.S. Trade Representative (USTR) is working on a new China Section 301 product exclusion process. Many lawmakers continue to press for an exclusion process.

The Biden Administration may initiate a Section 301 investigation into Chinese subsidies that could lead to new Section 301 duties.

Source: Miller & Company P.C.

Census VSDs

Importers are reminded that some Census Automated Export System (AES) filing errors – particularly those involving repetitive errors and/or other government agency issues – warrant the filing of a Voluntary Self-Disclosure (VSD) with Census. Census recently indicated in a Commerce Department advisory committee meeting that it is revising its regulations to reflect its current practice of accepting VSDs by email. **Source: Miller & Company P.C.**

China WTO Compliance

The U.S. Trade Representative (USTR) has requested comments on China's compliance with the commitments it made in connection with its admission into the World Trade Organization (WTO). Specifically, the USTR invites comments on China's import regulations, export regulations, internal policies affecting trade, intellectual property rights, services, rule of law issues, and other WTO commitments. Comments are supposed to be submitted by September 15th. 86 Fed. Reg. 46066 (August 17, 2021).

Source: Miller & Company P.C.

Video Cameras

The U.S. Court of International Trade (CIT) determined that webcams and conference cameras are classified in Heading 8517 as other apparatus for the transmission or reception of voice, images, or other data, and not in Heading 8525 as television cameras based on a principal use analysis. *Logitech, Inc. v. U.S.*, CIT Slip Op. No. 21-106 (August 24, 2021).

Source: Miller & Company P.C.

Russian Pipeline Sanctions

On August 20, President Biden announced a new Executive Order (EO) relating to the Protecting Europe's Energy Security Act of 2019 (PEESA). In response to the new EO, OFAC has announced a new General License (GL) 1A; new frequently asked questions (FAQs) 919, 920, and 921; and updated FAQ 894. 86 Fed. Reg. 47205 (August 24, 2021).

Source: Miller & Company P.C.

Broker Education

CBP has issued a Proposed Rule that would, among other things, impose a continuing education requirement of at least 36 hours of continuing education credits per triennial period on customs brokers. Comments are due by November 9, 2021. 86 Fed. Reg. 50794 (September 10, 2021).

Source: Miller & Company P.C.

Excise Tax Drawback

The U.S. Court of Appeals for the Federal Circuit (CAFC) has affirmed a decision which invalidated Customs regulations that limited the amount of substitution drawback that can be claimed for excise taxes on imported wine. The



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National Assoc. of Manufacturers, the Beer Institute v. Dep't of Treasury, CAFC Slip. Op. No. 20-1734 (August 23, 2021).

Source: *Miller & Company P.C.*

Forced Labor

On September 10, U.S. Customs and Border Protection (CBP) announced that it was modifying the Forced Labor Finding on certain disposable gloves produced in Malaysia by Top Glove Corporation because it determined that all indications of forced labor were resolved by remediation payments of \$30 million to workers and improved labor and living conditions at company facilities. 86 Fed. Reg. 50725 (September 10, 2021).

CBP trade statistics indicate that it detained 967 shipments with a total value of approximately \$368 million between October 1, 2020, and August 6, 2021, due to the possible use of forced labor.

In the Frequently Asked Questions (FAQs) for the Hoshine Silicone Industry Co. Ltd. Withhold Release Order (WRO), CBP has revised its comments on the consideration of de minimis arguments.

Source: *Miller & Company P.C.*

CBP Fee Increase

CBP user fees increases go into effect on October 1. These increases include the Merchandise Processing Fee (MPF) and informal entry, manual entry, and dutiable mail fees. The maximum MPF is increasing by \$10.17 to \$538.40 per entry. CSMS #49296457 (September 9, 2021).

Source: *Miller & Company P.C.*

321 De Minimis Pilot Program

CBP has announced a two-year extension of its Section 321 de minimis entry data pilot through August 2023. Pilot participants agree to electronically transmit certain data in advance for shipments potentially eligible for release under Section 321. 86 Fed. Reg. 48435 (August 30, 2021).

Source: *Miller & Company P.C.*

FTZ Section 301 Duties

In a recent letter to the U.S. Trade Representative, the National Association of Foreign-Trade Zones (NAFTZ) has requested that any de-escalation of Section 301 trade remedy duties should also apply to merchandise admitted to FTZs in Privileged Foreign (PF) status. Currently, the Section 301 duty rate applicable to FTZ merchandise in PF status is the rate in effect at the time of admission and any later Section 301 duty rate reductions would not apply to PF status merchandise entered from an FTZ.

Source: *Miller & Company P.C.*

USITC 2020 Trade Report

The U.S. International Trade Commission (ITC) has released a report on 2020 U.S. trade issues that highlights trade trends during the COVID-19 pandemic, including an overall 9% drop in merchandise trade. The report includes Section 301 cases, U.S. trade preference programs, bilateral trade issues, and interactive charts and graphs on trade data and industry sectors. The report can be viewed at:

https://www.usitc.gov/press_room/news_release/2021/er0907111821.htm

Source: *Miller & Company P.C.*

Lacey Act

The Animal and Plant Health Inspection Service (APHIS) has announced that implementation of Phase VI of the Lacey Act enforcement schedule begins on October 1, 2021. CSMS #48968987 (August 7, 2021).

Source: *Miller & Company P.C.*

Drawback Ports

Effective September 14, drawback claims submitted in ACE are being routed to designated Centers of Excellence and Expertise (CEE) based on the claimant's industry sector. This is a big change from filing at the designated drawback ports. CBP has issued a chart aligning industry sectors with the managing centers. Contact Sean Murray with questions. CSMS #49358330 (September 13, 2021).

Source: *Miller & Company P.C.*



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Unused Drawback Expansion

CBP has issued a ruling that the oiling of a machine, the fitting of a transformer to adjust electrical voltage, and the uploading of software patches to a machine tool do not constitute manufacturing or use. As a result, such machine tools are eligible for unused manufacturing drawback. HQ H290897 (July 28, 2021). **Source: Miller & Company P.C.**

Chinese Trade Accelerates; Biden, Xi Talk

U.S. President, Joe Biden, and Chinese President, Xi Jinping, had a discussion on a broad range of topics September 9, in an effort to reset relations between the two countries. This continues the shift of U.S.-Chinese focus away from trade topics, as both countries seem content to let the Phase One trade deal brokered under the previous U.S. administration continue. Trade issues may come to a head, however, as Chinese trade recovers from various COVID-19-related slowdowns and commitments made in the deal start to fall behind. August data from China shows the trade surplus with the U.S. widening 10% year over year, a figure that may become harder to ignore if promised Chinese purchases continue to face challenges.

Toro Braces for Inflation After Steady Summer

Toro, a maker of lawn, garden, and home improvement equipment, released FQ3 earnings covering the three months to July 31. The company reported a 16.2% year over year increase in revenues that exceeded analyst estimates by 2.3%. Data associated with the firm shows a large pickup in import activity with volumes increasing by 77.4% year over year.

The company noted the tailwinds associated high consumer spending with CEO, Richard Olson, saying in the September 2 earnings call that they had “robust demand in both our professional and residential segments,” while CFO, Renee Peterson, added that Toro faced “increasing supply chain, inflation and labor pressures.”

This mirrors the comments said by the company last quarter in the research data of June 8,

reinforcing the consistently high factors that companies saw across the summer. Toro’s equipment is popular both in the summer (lawn mowers) and in the winter (snow blowers), and so the firm will likely continue to import at a high level as long as demand from consumers remains strong.

Toro also noted an increased focus on “procuring materials, components and other resources to accelerate the pace of production,” with the expectation that freight and labor are going to increase in the future. Companies are reacting to expected increases in costs in the future as inflation works its way through the supply chain.

Products imported by Toro include home equipment like lawn mowers and snow blowers as well as hand and power tools. Imports of these two categories increased by 325.5% year over year and 216.1% year over year, respectively, with recent data from August showing a slowdown in growth, 123.4% and 109.5% year over year, respectively. This slowdown in imports has been seen across all U.S. imports as the economy settles into a pandemic normal.

Imports of parts and other goods also increased 106.8% year over year in FQ3. August saw imports of these goods jump up to 320.8% year over year, possibly indicating that supply chains are shifting to more components. This could be an expectation that inflation will eventually temper demand, or a surge to bring in relatively lower cost components while they are available.

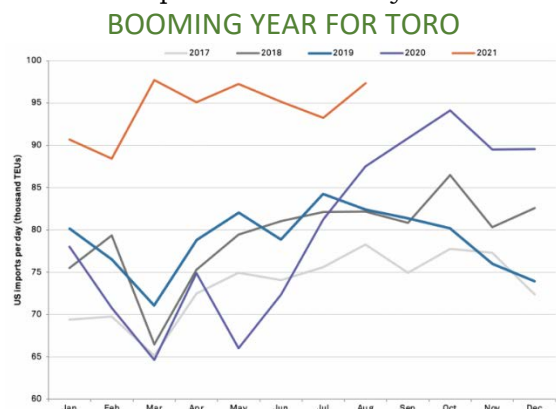


Chart shows U.S. seaborne imports associated with Toro on a monthly basis. Source: Panjiva



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Top Glove Imports Reduced by WRO Face Competition

Top Glove has been released from a July 2020 withhold release order issued by U.S. Customs and Border Protection (CBP), having satisfied the agency that their goods from Malaysia are not related to slave or forced labor, Nikkei reports. The company worked with an outside auditor to review their supply chain and provides an example of the full impacts of how a CBP order can impact a firm. Top Glove was also hit by COVID-19 shutdowns in Malaysia as well, dealing a second blow to the company's operations.

Data shows that imports associated with Top Glove fell by 75.7% year over year in Q2, followed by a 85.2% year over year decline in July and August combined. Understandably, imports from Malaysia declined rapidly—in 2020 the country accounted for 70.8% of top glove imports by volume while in the first eight months to 2021 that fell to 56.5%. Malaysian imports fell to the same levels as the second largest supplier, Thailand, accounting for 41.5% of imports in the same eight months. Notably, Chinese supplies also dropped off with imports from that country accounting for just 2 TEU in the first eight months of 2021.

The removal of the order also comes as total U.S. import growth in gloves is slowing, with imports from China increasing by 13.2% after pandemic related highs earlier in 2021. Overall imports from Malaysia also slowed, increasing by 10.3% year over year, while imports from Thailand increased by 16.9%. This slowdown in import growth likely reflects the large ramp up in imports experienced in Q3 last year as PPE supply chains were ironed out.

DHL, K+N Lead Forwarder Pack in August

Freight forwarders saw slowing growth in U.S. markets in August as total volumes imported grew by 11.5% year over year, down from 14.7% in July. This does little to offset the surge in U.S. imports over the last 12 months, with imports against August 2019 up by 18.4%.

Much of the slowdown may be attributed to imports from Europe, as U.S. imports that originated in European ports slowed to 16.9% in August from 40.1% year over year in July. Imports from Chinese ports and all other ports remained relatively stable, with goods loaded in China increasing by 3.9% year over year and all others increasing by 17.3% year over year. The low rate of import growth from China could reflect closures in export focused ports in Yantian and Ningbo, while European growth may be hitting capacity limits, either with carriers or relatively smaller east coast ports.

DP-DHL and K+N lead forwarders in August growth, increasing volumes by 37.1% and 26.8% year over year, respectively. Even though both companies saw momentum slowing, as compared to their growth in the three months to July 31, 54.8% and 41.8%, respectively.

Almost all of the top forwarders by volume saw slowdowns as well with only Fedex showing positive momentum in the three months to August 31, growth increasing from 7.1% to 12.0% year over year. Hecny and Ceva topped the other end of the rankings with import volume falling by 25.8% and 25.6% year over year, respectively, in August.

FEDEX MOMENTUM STANDS OUT

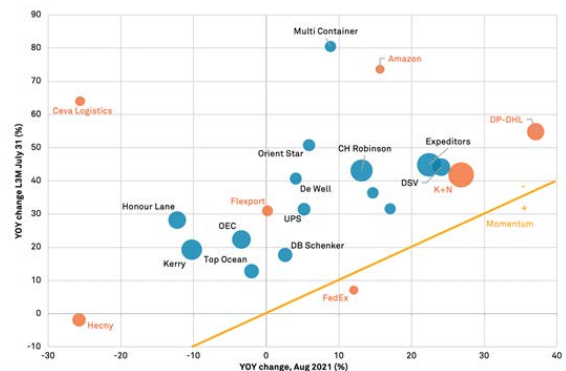


Chart shows imports by volume associated with forwarders by year over year change in August and the last three months to July 31. Circle sizes indicate volume in the twelve months to August 31. Color for emphasis.

Source: Panjiva

