

TRADE NEWS WEEKLY

May 2 – May 6, 2022

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 *Sandler, Travis & Rosenberg P.A.*, which tracks companies involved in global trade. Other news sources may occasionally be included where indicated.

CBP Planning to Start Development of ACE Successor in 2025

U.S. Customs and Border Protection is looking to start in 2025 development of a new system that will ultimately replace the Automated Commercial Environment.

In a paper submitted to a recent meeting of CBP's Commercial Customs Operations Advisory Committee, CBP said ACE 2.0 will not be a refresh of ACE or a set of incremental changes but instead is intended to be a new system based on a rethinking of how current and future technologies can be leveraged to provide a true single window for international trade. CBP expects that ACE 2.0 will implement the reimagined trade processes developed as part of the 21st Century Customs Framework and match "the natural flow of the supply chain."

The modernized entry process provided by ACE 2.0 will include high-level transformations, CBP said, such as supply chain transparency, complete automation of the supply chain, data acquisition from non-traditional actors, international standards development over forcing technical changes, and modernization of the in-bond process. Among other things, the new system will allow CBP and its partner government agencies to receive better quality data much earlier in the supply chain, often in near-real time from traditional as well as non-traditional actors, which will facilitate faster government responses with earlier determinations on cargo.

CBP added that ACE 2.0 will incorporate several important design features, including interoperability and digital twins.

Interoperability means the system will work with a variety of technologies so it can communicate with legacy and future systems, blockchain, and distributed ledger technology. A digital twin is a digital representation of the physical item and CBP said adopting this premise will allow it and its trade partners to build "a completely transparent supply chain."

For now, CBP is working with COAC to review high-level ideas about reimagined processes for cargo entry, collections, exports, post-entry, and post-audit. CBP is also organizing internal working groups to evaluate those processes from a government perspective. From there, CBP will coordinate with the Trade Support Network to develop these ideas in further detail.

CBP is also moving forward with five projects to test the impact of some ACE 2.0 concepts on different portions of the trade universe, namely steel, natural gas, oil, food safety, and e-commerce. Each project uses some form of DLT and/or blockchain technologies to advance new capabilities. In addition, through the Silicon Valley Innovation Program, CBP is pursuing pre-arrival/pre-release data for steel and pipeline commodity imports.

Source: *Sandler, Travis & Rosenberg P.A.*

Trade Enforcement Efforts Saw Big Increase in FY 2021

U.S. Customs and Border Protection further reduced import processing times in fiscal year 2021 but also saw substantial increases in



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enforcement measures, according to the agency's annual trade and travel report.

Automated Commercial Environment. In FY 2021 ACE reduced processing times by 795,000 hours for the trade community (up 2.6 percent) and 10.5 million hours for CBP (up 90.9 percent) and yielded an estimated economic benefit of \$2.25 billion for the trade community (up 60.7 percent) and \$720.1 million for CBP (up 101 percent). CBP primarily attributes these savings to the trade community's expanded use of the Section 321 and entry type 86 processes.

Border Inspections. CBP officers used more than 350 large-scale non-intrusive inspection systems at land and seaports of entry in FY 2021 (no change) to perform approximately 7.8 million examinations (up 21.9 percent). The time saved using NII and radiation equipment saves CBP \$1 million in annual operations and saves industry \$5.8-17.5 billion in costs due to delays.

Two contracts for drive-through NII systems were awarded to increase scanning at southwest border land ports of entry. CBP will initiate design and construction work in FY 2022 and anticipates full deployment of these systems by calendar year 2024. After the deployment is completed, commercial cargo scanning is projected to increase from 15 percent to more than 90 percent. In the rail environment, CBP initiated design and construction to deploy high-energy rail inspection systems at 12 locations that are expected to be fully deployed by FY 2023.

CBP also opened three additional unified cargo processing centers along the U.S.-Mexico border, increasing the total to 12. At these locations, CBP and Mexico's Tax Administration Service conduct joint cargo inspections at the facilities of the importing or exporting country, which has resulted in a 50 percent or greater reduction of border wait times.

CTPAT. The more than 11,000 certified members of the Customs Trade Partnership Against Terrorism accounted for 52 percent (by value) of cargo imported into the U.S. in FY 2021 (no change for either figure). CBP

completed 1,795 validations (up 38 percent) to certify that CTPAT members both implemented and followed the highest level of supply chain security measures, and CBP enforcement actions led to 142 suspensions (up 5.2 percent) and 79 removals (down 49 percent). On the other hand, CTPAT members saved more than \$58 million from reduced examination rates (down 11.4 percent) and CTPAT carriers that requested to unlade cargo in advance under the Advanced Qualified Unlading Approval program saved more than \$27 million.

The integration of the Importer Self-Assessment program has transformed CTPAT into an authorized economic operator program that includes security and trade compliance. CBP is also working with its Commercial Customs Operations Advisory Committee to refine formal program requirements on social compliance that will be rolled out in FY 2022.

E-commerce. CBP saw an approximately 20 percent increase in low-value (below \$800) shipments in FY 2021, including a 23 percent increase in the air environment.

CBP is conducting the Section 321 data pilot, which aims to improve its ability to identify and target high-risk e-commerce shipments, and the entry type 86 test, which enables customs brokers and self-filers to electronically submit de minimis entries via the Automated Broker Interface, including those subject to data requirements of partner government agencies for clearance. CBP received more than 500 million filings from these two pilots in FY 2021 (up about 210 percent), with benefits including same-day clearances (compared with 6-8 day wait times), about \$2 billion in time and cost savings from entry type 86 electronic clearances, quicker and more accurate risk assessments, and fewer CBP holds.

Forced Labor. CBP issued seven new withhold release orders (down from 13 in FY 2020) and published two new findings (the first in 24 years). The value of shipments detained and seized for forced labor concerns rose from just under \$50 million in FY 2020 to more than \$485 million in FY 2021. CBP is currently enforcing 49 active WROs (up 11.4 percent from FY 2020) and seven active findings (no change).



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IPR. At the end of FY 2021, CBP was enforcing 20,758 active recorded copyrights and trademarks (up 10.7 percent from FY 2020) and had seized 27,107 shipments with intellectual property rights violations (up 2.3 percent). Express and international mail shipments accounted for 90 percent of IPR-related seizures. CBP attributes the increase to a return to pre-pandemic trading levels and an overall increase in the number of seizures of counterfeit products. CBP was also administering 128 active exclusion orders issued by the International Trade Commission (up one).

Modernization. CBP is currently working on five projects that demonstrate distributed ledger and blockchain technologies with respect to steel, natural gas, oil, food safety, and e-commerce. Each project has four phases that last six to nine months. Through the Silicon Valley Innovation Program, which works with private-sector partners to advance homeland security solutions, CBP is trying to obtain pre-arrival/pre-release data for steel and pipeline commodity imports. Technical demonstrations are planned for 2023 and 2024 to achieve five objectives before going into production the following year. These objectives include developing fully digital transactions, introducing interoperability standards, receiving data earlier in the pre-arrival/pre-release process, increasing supply chain transparency, and enhancing entity identification.

Pandemic. CBP seized more than 35 million counterfeit face masks (up 176 percent), 38,154 prohibited COVID-19 test kits (down 78 percent), and other violative pandemic-related items. Of these seizures, 53 percent occurred in the express consignment environment (no change) and about 31 percent originated in China (down from 51 percent).

Product Safety. In FY 2021, the Commercial Targeting and Analysis Center facilitated efforts that led to 12,853 seizures of products posing health and safety risks (up 37.0 percent) and 531 seizures because of wildlife trafficking violations (up 53.4 percent).

Tariffs. In FY 2021, CBP processed \$2.8 trillion in imports equating to 36.9 million entries and

more than 32.7 million cargo containers (all higher than FY 2020). It collected \$93.8 billion in duties, taxes, and other fees on those imports (up 19.0 percent), including \$85.5 billion in duties (up 14.9 percent). More than half of these duties were from the Section 201 safeguard tariffs on washing machines, washing machine parts, and solar panels (\$955 million, up 6.1 percent); Section 232 duties on steel (\$1.6 billion, up 23.1 percent) and aluminum (\$445 million, down 11 percent); and Section 301 tariffs on goods from China (\$44 billion, up 32.8 percent).

Trade Remedies. At the end of FY 2021, CBP was enforcing 634 antidumping and countervailing duty orders (up 17.4 percent from FY 2020) and had assessed about \$2.4 billion in AD/CV cash deposits (up 25 percent). Entry summary reviews resulted in the recovery of \$75 million in AD/CV duties owed (down 20.4 percent); monetary penalties for fraud, gross negligence, and negligence of AD/CV requirements totaled more than \$43 million (up 38.7 percent); and audits identified more than \$568 million in AD/CV discrepancies (up 180 percent), with \$6.3 million (down 12.5 percent) collected to date. CBP and U.S. Immigration and Customs Enforcement seized shipments with a domestic value of more than \$10.6 million for AD/CV violations (up 864 percent).

CBP received 54 new allegations of AD/CV duty evasion under the Enforce and Protect Act (up 42.1 percent), initiated 48 EAPA investigations (down 25 percent), took interim measures in 41 investigations (down 4.7 percent), and issued final determinations for 44 investigations (up 47 percent). CBP also conducted five on-site visits or verifications in Cambodia, Vietnam, Singapore, and the Dominican Republic. EAPA investigations covered a wide range of commodities, including diamond sawblades, steel and steel pipe products, aluminum extrusions, quartz surface products, plywood, glycine, steel wire garment hangers, xanthan gum, wooden bedroom furniture, wooden cabinets and vanities, and lightweight thermal paper.

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Duty-Free Imports

The Western Hemisphere Nearshoring Act (H.R. 7579, introduced April 26 by Rep. Green, R-Tenn.) would, among other things, provide 15 years of duty-free treatment to U.S. imports of goods and services made or produced in a Latin American or Caribbean country by a qualified corporation that has received assistance under this bill to relocate its operations from China. Such companies could not be or become owned or controlled by the governments of China or Russia. Revenues lost as a result of this duty-free treatment would be offset by tariffs on imports from China.

This bill would also direct the Office of the U.S. Trade Representative to launch negotiations on trade agreements with Latin American or Caribbean countries not already party to free trade agreements with the U.S., provided that they (1) are taking steps to reduce illegal migration to the U.S., (2) are taking steps to reduce their economic dependence on China, and (3) allow Taiwan to establish and maintain a commercial office in that country.

Source: Sandler, Travis & Rosenberg P.A.

Supply Chain Resilience and Security in Key Sectors is Focus of BIS Inquiry

The Bureau of Industry and Security is requesting no later than May 23 public comments on how to advance supply chain resilience and security in the following key sectors: semiconductors, solar photovoltaics, critical minerals and materials (including rare earth magnets), lithium-ion batteries, material inputs to semiconductors, and pharmaceuticals.

Comments received will inform the work of the U.S.–European Union Trade and Technology Council Secure Supply Chains Working Group, which is tasked with increasing visibility and transparency of supply and demand, mapping respective existing sectoral capabilities, exchanging information on policy measures and research and development priorities, and cooperating on strategies to promote supply chain resilience, security, and diversification.

BIS welcomes public comments from all interested parties on how best to achieve these tasks but is particularly interested in obtaining information from foreign and domestic entities that actively participate in the supply chains for the sectors identified above.

Source: Sandler, Travis & Rosenberg P.A.

Foreign Softwood Lumber Subsidies are Focus of ITA Inquiry

The International Trade Administration is inviting comments by May 20 on any subsidies provided by certain countries exporting softwood lumber or softwood lumber products to the U.S. during the period July 1 through December 31, 2021. Comments should include the name of the country that provided the subsidy, the name of the subsidy program, a brief (no more than three to four sentence) description of the subsidy program, and the government body or authority that provided the subsidy.

Given the large number of countries that export softwood lumber or softwood lumber products to the U.S., the ITA is only interested in subsidies provided by countries whose exports accounted for at least one percent of total U.S. imports of softwood lumber by quantity, as classified under HTSUS 4407.10.01, 4407.11.00, 4407.12.00, 4407.19.05, 4407.19.06, and 4407.19.10, during this period. Official U.S. import data published by the International Trade Commission indicate that only Brazil, Canada, Germany, Romania, and Sweden met this criterion.

Source: Sandler, Travis & Rosenberg P.A.

China Trade Remedies

The Senate voted April 28 to go to conference with the House to resolve differences between the *America COMPETES Act* passed by the House and the *U.S. Innovation and Competition Act* passed by the Senate. It remains unclear when conference talks will begin.

Source: Sandler, Travis & Rosenberg P.A.

